

NATURAL RESOURCES CODE
CHAPTER 91. PROVISIONS GENERALLY APPLICABLE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.
 - (2) "Gas" means natural gas.
 - (3) "Oil" means crude oil and crude petroleum oil.
- Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.002. CRIMINAL PENALTY. (a) A person who wilfully or with criminal negligence violates Section 91.101 of this code or a rule, order, or permit of the commission issued under that section commits an offense.

(b) An offense under Subsection (a) of this section is punishable by a fine of not more than \$10,000 a day for each day a violation is committed.

(c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

Added by Acts 1983, 68th Leg., p. 5262, ch. 967, Sec. 9, eff. Sept. 1, 1983. Renumbered from Sec. 91.351 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(32), eff. Sept. 1, 1987.

Sec. 91.003. ADDITIONAL ENFORCEMENT AUTHORITY. (a) In addition to other authority specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule, order, or permit of the commission adopted under this chapter in the manner and subject to the conditions provided in Chapters 81 and 85 of this code, including the authority to seek and obtain civil penalties and injunctive relief as provided by those chapters.

(b) If the enforcement authority in Section 81.054, Natural Resources Code, is used to institute a civil action alleging a violation of an NPDES permit issued under this chapter, the attorney general may not oppose intervention by a person who has standing to intervene as provided by Rule 60, Texas Rules of Civil Procedure.

Added by Acts 1983, 68th Leg., p. 5262, ch. 967, Sec. 9, eff. Sept. 1, 1983. Renumbered from Sec. 91.352 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(32), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 310, Sec. 6, eff. Aug. 28, 1995.

SUBCHAPTER B. DUTIES RELATING TO OIL AND GAS WELLS

Sec. 91.011. CASING. Before drilling into the oil or gas bearing rock, the owner or operator of a well being drilled for oil or gas shall encase the well with good and sufficient wrought iron or steel casing or with any other material that meets standards adopted by the commission, particularly where wells could be subjected to corrosive elements or high pressures and temperatures, in a manner that will exclude surface or fresh water from the lower part of the well from penetrating the oil or gas bearing rock, and if the well is drilled through the first into the lower oil or gas bearing rock, the well shall be cased in a manner that will exclude fresh water above the last oil or gas bearing rock penetrated.

Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 704, Sec. 1, eff. Aug. 26, 1985.

Sec. 91.012. WATER IN WELLS. (a) In boring any well for oil or gas, if a person pierces any cap rock or other geological formation in a manner that will cause a flow of salt water or fresh water injurious to an already bored oil well or any oil or gas deposits and that will probably result in the injury of the oil or gas field or already bored oil or gas well, the person shall abandon immediately all work on the well if the flow of water cannot be cased off and shall plug and fill the well in a manner and with materials that will stop the flow of the water.

(b) No well owner or person boring a well described under Subsection (a) of this section may remove the casing from the drilled well until the flow of water is stopped either by casing off or plugging the well.

(c) The provisions of this section apply only if the cap rock or other formation is pierced at a depth below the horizon at which oil or gas has been discovered already.

Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.013. PLUGGING AND SHUTTING IN WELLS BY OTHERS. (a)

If the owner of a well described in Subsection (a) of Section 91.012 of this code neglects or refuses to have the well plugged or shut in for more than 20 days after written notice is given to him, the owner or operator of adjacent or neighboring land may enter the premises on which the well is located and have the well plugged if it is an abandoned well or shut in if it is not abandoned, in the manner provided by law.

(b) Notice may be given to the owner of the well either by personal service on the owner or by posting the notice at a conspicuous place at or near the well.

(c) The reasonable cost and expense incurred in plugging or shutting in the well shall be paid by the owner of the well and may be recovered as debts of like amount are recovered under the law.

Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.014. PETITION TO RESTRAIN WASTE. (a) In addition to any other penalties, a district judge, in term time or vacation time, shall hear and determine any petition that is filed to restrain the waste of gas in violation of this subchapter and may issue mandatory or restraining orders that in his judgment are necessary.

(b) The petition may be filed by any citizen of this state and does not have to allege further financial interest of the petitioner in the state's natural resources than that possessed in common with all citizens of the state.

Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.015. PREVENTION OF WASTE. Operators, contractors, drillers, pipeline companies, and gas distributing companies that drill for or produce oil or gas or pipe oil or gas for any purpose shall use every possible precaution in accordance with the most approved methods to stop and prevent waste of oil, gas, or both oil and gas in drilling and producing operations, storage, piping, and distribution and shall not wastefully use oil or gas or allow oil or gas to leak or escape from natural reservoirs, wells, tanks, containers, or pipes.

Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.016. CONFINING GAS TO ORIGINAL STRATUM. (a) If gas located in a gas-bearing stratum known to contain gas in paying quantities is encountered in a well drilled for oil or gas in this state, the gas shall be confined to its original stratum until it can be produced and used without waste.

(b) Gas-bearing strata shall be adequately protected from infiltrating water.

Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.017. USING GAS IN THE OPEN AIR. (a) Any person who uses gas in lights in the open air or in or around derricks shall turn off the gas not later than 8 a. m. of each day the lights are burning or are used and shall not turn the lights on or relight them between 8 a. m. and 5 p. m.

(b) The person consuming the gas and using the burners in the open air shall enclose them in glass globes or lamps.

Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.018. ILLUMINATION. No person, copartnership, or corporation may use gas for illuminating purposes in flambeau lights. The use of "jumbo" burners or other burners consuming no more gas than the "jumbo" burners is not prohibited.

Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER C. STANDARD GAS MEASUREMENT

Sec. 91.051. TITLE. This subchapter may be cited as the Standard Gas Measurement Law.

Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.052. DEFINITION. (a) The term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base.

(b) The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. If the conditions of pressure and temperature differ from this standard, conversion of the volume from these

conditions to the standard conditions shall be made in accordance with the ideal gas laws, corrected for deviation.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.053. COMMISSION DETERMINATION. The commission shall determine the average temperature of gas as produced in each oil and gas field in Texas, other variable factors necessary to calculate the metered volumes in accordance with the ideal gas laws, and the variable factors to correct for deviation from the ideal gas laws in each of the oil and gas fields in the state.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.054. NOTICE AND HEARING. On request of any interested person, the commission shall give proper notice and hold a public hearing before making a determination under Section 91.053 of this code.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.055. FINDINGS AND RULES. On making the determination, the commission promptly shall make its findings and shall adopt reasonable field rules that may be necessary to effectuate the provisions of this subchapter.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.056. USE OF FINDINGS AND FIELD RULES. (a) Any person may use the findings and field rules of the commission for any purposes under this subchapter.

(b) If the findings or field rules are not used as provided in Subsection (a) of this section in determining volumes under this subchapter, the volumes otherwise determined shall be corrected to the basis of the standard cubic foot of gas as defined in Section 91.052 of this code.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.057. METHOD OF REPORTING. A person required to report volumes of gas under the laws of this state shall report the volumes in number of standard cubic feet calculated and determined under the provisions of this subchapter.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.058. SALE, PURCHASE, DELIVERY, AND RECEIPT OF GAS. (a) Each sale, purchase, delivery, and receipt of gas by volume made in this state by, for, or on behalf of an oil and gas lease owner, royalty owner under a lease, or other mineral interest owner shall be made and the gas shall be measured, calculated, purchased, delivered, and accounted for on the basis of a standard cubic foot of gas as defined in this subchapter and determined under this subchapter.

(b) If the provisions of this subchapter operate to change the basis of measurement provided in existing contracts, the price for gas, including royalty gas, provided for in the contracts shall be adjusted to compensate for the change in the method of measuring the volume of gas delivered under the contracts if either the purchaser or seller so desires.

(c) This section is intended to protect parties to contracts in existence on October 4, 1949, so that the total amount of money paid for a volume of gas purchased or required to be accounted for under these contracts shall remain unaffected by this subchapter.
Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.059. CONSTITUTIONALITY. If the provisions of Section 91.058 of this code or any part of that section are held to be invalid or unconstitutional by the courts, the remaining portions of this subchapter shall become ineffective and inoperative.
Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.061. CIVIL SUIT. None of these provisions shall prevent an aggrieved person from maintaining a civil suit for damages in the county or counties in which the gas is produced.
Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.062. APPLICABILITY OF CERTAIN PROVISIONS. None of the provisions of Sections 91.058 through 91.061 of this code affect or apply to purchases or sales made on any basis other than a

volume basis.

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER D. PREVENTION OF POLLUTION

Sec. 91.101. RULES AND ORDERS.

Text of section effective until delegation of RCRA authority to
Railroad Commission of Texas

(a) To prevent pollution of surface water or subsurface water in the state, the commission shall adopt and enforce rules and orders and may issue permits relating to:

(1) the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;

(2) the production of oil and gas, including:

(A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(B) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;

(C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(D) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(E) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(F) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(3) the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission; and

(4) the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste as defined in Section 91.1011 of this subchapter, or of any other substance or material associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this subsection.

(b) Notwithstanding the provisions of Subsection (a) of this section, the authority granted to the commission by this section does not include the authority to adopt and enforce rules and orders or issue permits regarding the collection, storage, handling, transportation, processing, or disposal of waste arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 921, Sec. 4, eff. June 15, 1985.

For text of section effective upon delegation of RCRA authority to Railroad Commission of Texas, see Sec. 91.101, post

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(1) the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;

(2) the production of oil and gas, including:

(A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(B) activities associated with the drilling of cathodic protection holes associated with the cathodic protection

of wells and pipelines subject to the jurisdiction of the commission;

(C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(D) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(E) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(F) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(3) the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission; and

(4) the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste as defined in Section 91.1011 of this subchapter, or of any other substance or material associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this section.

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 921, Sec. 4, eff. June 15, 1985.

For text of section effective until delegation of RCRA authority to Railroad Commission of Texas, see Sec. 91.101, ante

Sec. 91.1011. OIL AND GAS WASTE.

Text of section effective until delegation of RCRA authority to Railroad Commission of Texas

(a) In this subchapter, "oil and gas waste" means waste that arises out of or incidental to the drilling for or producing of oil or gas, including waste arising out of or incidental to:

(1) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(2) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;

(3) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(4) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(5) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(6) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel.

(b) "Oil and gas waste" includes salt water, brine, sludge, drilling mud, and other liquid, semiliquid, or solid waste material, but does not include waste arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

Added by Acts 1983, 68th Leg., p. 5060, ch. 967, Sec. 7, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 921, Sec. 4, eff. June 15, 1985.

For text of section effective upon delegation of RCRA authority to Railroad Commission of Texas, see Sec. 91.1011, post

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Text of section effective upon delegation of RCRA authority to
Railroad Commission of Texas

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(1) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(2) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;

(3) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(4) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(5) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(6) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel.

(b) "Oil and gas waste" includes salt water, brine, sludge, drilling mud, and other liquid, semiliquid, or solid waste material.

Added by Acts 1983, 68th Leg., p. 5060, ch. 967, Sec. 7, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 921, Sec. 4, eff. June 15, 1985.

For text of section effective until delegation of RCRA authority to Railroad Commission of Texas, see Sec. 91.1011, ante

Sec. 91.1012. ACCESS TO PROPERTY AND RECORDS. Members and employees of the commission, on proper identification, may enter public or private property to inspect and investigate conditions relating to the quality of water in the state, to inspect and investigate conditions relating to development of rules, orders, or permits issuable under Section 91.101 of this code, to monitor compliance with a rule, permit, or other order of the commission, or to examine and copy, during reasonable working hours, those records or memoranda of the business being investigated. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

Added by Acts 1983, 68th Leg., p 5260, ch. 967, Sec. 7, eff. Sept. 1, 1983.

Sec. 91.1013. APPLICATION FEES. (a) With each application for a fluid injection well permit, the applicant shall submit to the commission a nonrefundable fee of \$200. In this section, "fluid injection well" means any well used to inject fluid or gas into the ground in connection with the exploration or production of oil or gas other than an oil and gas waste disposal well regulated by the commission pursuant to Chapter 27, Water Code.

(b) With each application for a permit to discharge to surface water under this chapter and commission rules, other than a permit for a discharge that meets National Pollutant Discharge Elimination System requirements for agricultural or wildlife use, the applicant shall submit to the commission a nonrefundable fee of \$300.

(c) Fees collected under this section shall be deposited in the state oil-field cleanup fund.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 72, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 14, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1089, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 17, eff. Sept. 1, 2001.

Sec. 91.102. ADDITIONAL PERSONNEL. The commission is directed to employ additional personnel necessary to administer this subchapter and related laws and rules and orders adopted by the commission.

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983.

Sec. 91.103. PERSONS REQUIRED TO EXECUTE BOND, LETTER OF CREDIT, OR CASH DEPOSIT. Any person, including any firm, partnership, joint stock association, corporation, or other organization, required to file an organization report under Section 91.142 of this code shall execute and file with the commission a bond, letter of credit, or cash deposit.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 603, Sec. 8, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 18, eff. Sept. 1, 2004.

Sec. 91.104. BONDS, LETTERS OF CREDIT, CASH DEPOSITS, AND WELL-SPECIFIC PLUGGING INSURANCE POLICIES. (a) The commission shall require a bond, letter of credit, or cash deposit to be filed with the commission as provided by Subsection (b).

(b) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who is an inactive operator or who operates one or more wells must, at the time of filing or renewing an organization report required by Section 91.142, file:

(1) an individual bond as provided under Section 91.1041;

(2) a blanket bond as provided under Section 91.1042; or

(3) a letter of credit or cash deposit in the same amount as required for an individual bond under Section 91.1041 or a blanket bond under Section 91.1042.

(c) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who operates one or more wells is considered to have met that requirement for a well if the well bore is included in a well-specific plugging insurance policy that:

(1) is approved by the Texas Department of Insurance;

(2) names this state as the owner and contingent beneficiary of the policy;

(3) names a primary beneficiary who agrees to plug the specified well bore;

(4) is fully prepaid and cannot be canceled or surrendered;

(5) provides that the policy continues in effect until the specified well bore has been plugged;

(6) provides that benefits will be paid when, but not before, the specified well bore has been plugged in accordance with commission rules in effect at the time of plugging; and

(7) provides benefits that equal the greatest of:

(A) an amount equal to \$2 for each foot of well depth, as determined in the manner specified by the commission, for the specified well;

(B) if the specified well is a bay well and regardless of whether the well is producing oil or gas, the amount required under commission rules for a bay well that is not producing oil or gas;

(C) if the specified well is an offshore well and regardless of whether the well is producing oil or gas, the amount required under commission rules for an offshore well that is not producing oil or gas; or

(D) the payment otherwise due under the policy for plugging the well bore.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 603, Sec. 9, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 30, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 19, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 20, eff. Sept. 1, 2004; Acts 2003, 78th Leg., ch. 490, Sec. 1, eff. Sept. 1, 2004; Acts 2005, 79th Leg., ch. 489, Sec. 1, eff. June 17, 2005.

Sec. 91.1041. INDIVIDUAL BOND. (a) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who operates one or more wells may file a bond in an amount equal to \$2 for each foot of well depth for each well.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a).

(c) When calculating under Subsection (a) the amount of the bond a person who operates one or more wells is required to file, the commission shall exclude a well if the well bore is included in a well-specific plugging insurance policy described by Section 91.104(c).

(d) If the inclusion of a bay or offshore well whose well bore is included in a well-specific plugging insurance policy described by Section 91.104(c) in the calculation under Subsection (b) of the amount of the bond an operator of one or more bay or offshore wells is required to file would result in an increase in the amount of the bond that would otherwise be required, the rules must provide for the exclusion of the well from the calculation.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 10, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 21, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 22, eff. Sept. 1, 2004; Acts 2005, 79th Leg., ch. 489, Sec. 2, eff. June 17, 2005.

Sec. 91.1042. BLANKET BOND. (a) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 may file a blanket bond to cover all wells for which a bond, letter of credit, or cash deposit is required as follows:

(1) a person who operates 10 or fewer wells shall file a \$25,000 blanket bond;

(2) a person who operates more than 10 but fewer than 100 wells shall file a \$50,000 blanket bond; and

(3) a person who operates 100 or more wells shall file a \$250,000 blanket bond.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a)(1), (2), or (3), as applicable.

(c) When calculating the number of an operator's wells for purposes of Subsection (a), the commission shall exclude a well if the well bore is included in a well-specific plugging insurance policy described by Section 91.104(c).

(d) If the inclusion of a bay or offshore well whose well bore is included in a well-specific plugging insurance policy described by Section 91.104(c) in the calculation under Subsection (b) of the amount of the bond an operator of bay or offshore wells is required to file would result in an increase in the amount of the bond that would otherwise be required, the rules must provide for the exclusion of the well from the calculation.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 10, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 23, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 24, eff. Sept. 1, 2004; Acts 2005, 79th Leg., ch. 489, Sec. 3, eff. June 17, 2005.

Sec. 91.105. BOND CONDITIONS. Each bond required by Section 91.103 shall be conditioned that the operator will plug and abandon all wells and control, abate, and clean up pollution associated with an operator's oil and gas activities covered under the bond in accordance with the law of the state and the permits, rules, and orders of the commission. This section does not apply to a well-specific plugging insurance policy described by Section 91.104(c).

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Renumbered from Sec. 91.106 by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 11, eff. Sept. 1, 1991; Acts 2005, 79th Leg., ch. 489, Sec. 4, eff. June 17, 2005.

Sec. 91.106. EXECUTION OF BOND. Each bond shall be executed by a corporate surety authorized to do business in this state and shall be renewed and be continued in effect until the conditions have been met or release is authorized by the commission.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Renumbered from Sec. 91.107 by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983.

Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT. If an active or inactive well is transferred, sold, or assigned by its operator, the commission shall require the party acquiring the well to file a new bond, letter of credit, or cash deposit as provided by Section 91.104(b), and the financial security of the prior operator shall continue to be required and to remain in effect, and the commission may not approve the transfer of operatorship, until the new bond, letter of credit, or cash deposit is provided or the commission determines that the bond, letter of credit, or cash deposit previously submitted to the commission by the person

acquiring the well complies with this subchapter. A transfer of a well from one entity to another entity under common ownership is a transfer for purposes of this section. This section does not apply to a well bore that is included in a well-specific plugging insurance policy described by Section 91.104(c).

Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Renumbered from Sec. 91.108 by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 12, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 25, 26, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1233, Sec. 27, eff. Sept. 1, 2004; Acts 2005, 79th Leg., ch. 489, Sec. 5, eff. June 17, 2005.

Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the refund provisions of Section 91.1091, if applicable, proceeds from bonds and other financial security required pursuant to this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies shall be deposited in the oil-field cleanup fund and, notwithstanding Sections 91.112 and 91.113, may be used only for actual well plugging and surface remediation.

Added by Acts 1983, 68th Leg., p. 5258, ch. 967, Sec. 6, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 15, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 28, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 489, Sec. 5, eff. June 17, 2005.

Sec. 91.109. FINANCIAL SECURITY FOR PERSONS INVOLVED IN ACTIVITIES OTHER THAN OPERATION OF WELLS. (a) A person applying for or acting under a commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste may be required by the commission to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the storage, handling, treatment, reclamation, or disposal site in accordance with state law, commission rules, and the permit to operate the site. However, this section does not authorize the commission to require a bond or other form of financial security for saltwater disposal pits, emergency saltwater storage pits (including blow-down pits), collecting pits, or skimming pits provided that such pits are used in conjunction with the operation of an individual oil or gas lease. Subject to the refund provisions of Section 91.1091 of this code, proceeds from any bond or other form of financial security required by this section shall be placed in the oil-field cleanup fund. Each bond or other form of financial security shall be renewed and continued in effect until the conditions have been met or release is authorized by the commission.

(b) In addition to the financial security requirements of Subsection (a), a person required to file a bond, letter of credit, or cash deposit under Section 91.103 who is involved in activities other than the ownership or operation of wells must file the bond, letter of credit, or cash deposit at the time of filing or renewing an organization report required by Section 91.142 according to the following schedule:

(1) no bond, letter of credit, or cash deposit if the person is a:

- (A) local distribution company;
- (B) gas marketer;
- (C) crude oil nominator;
- (D) first purchaser;
- (E) well servicing company;
- (F) survey company;
- (G) salt water hauler;
- (H) gas nominator;
- (I) gas purchaser; or
- (J) well plugger; or

(2) a bond, letter of credit, or cash deposit in an amount not to exceed \$25,000 if the person is involved in an activity that is not associated with the ownership or operation of wells and is not listed in Subdivision (1).

(c) A person who engages in more than one activity or operation, including well operation, for which a bond, letter of credit, or cash deposit is required under this subchapter is not required to file a separate bond, letter of credit, or cash deposit for each activity or operation in which the person is engaged. The person is required to file a bond, letter of credit, or cash deposit only in the amount required for the activity or operation in which the person engages for which a bond, letter of credit, or cash

deposit in the greatest amount is required. The bond, letter of credit, or cash deposit filed covers all of the activities and operations for which a bond, letter of credit, or cash deposit is required under this subchapter.

Added by Acts 1985, 69th Leg., ch. 464, Sec. 1, eff. Aug. 26, 1985. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 17, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1233, Sec. 29, eff. Sept. 1, 2004; Acts 2003, 78th Leg., ch. 490, Sec. 2, 3, eff. Sept. 1, 2003.

Sec. 91.1091. REFUND. The commission shall refund the proceeds from a bond, letter of credit, or cash deposit required under this subchapter if:

(1) the conditions that caused the proceeds to be collected are corrected;

(2) all administrative, civil, and criminal penalties relating to those conditions are paid; and

(3) the commission has been reimbursed for all costs and expenses incurred by the commission in relation to those conditions.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 16, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 30, Sec. 2, eff. Aug. 30, 1999; Acts 2005, 79th Leg., ch. 489, Sec. 5, eff. June 17, 2005.

Sec. 91.110. OIL AND GAS WASTE REDUCTION AND MINIMIZATION. To encourage the reduction and minimization of oil and gas waste, the commission shall implement a program to:

(1) provide operators with training and technical assistance on oil and gas waste reduction and minimization;

(2) assist operators in developing oil and gas waste reduction and minimization plans; and

(3) by rule establish incentives for oil and gas waste reduction and minimization.

Added by Acts 1991, 72nd Leg., ch. 296, Sec. 2.06, eff. June 7, 1991; Acts 1991, 72nd Leg., ch. 590, Sec. 6, eff. June 16, 1991.

Sec. 91.111. OIL-FIELD CLEANUP FUND. (a) The oil-field cleanup fund is created as a special fund in the state treasury.

(b) The commission shall certify to the comptroller the date on which the balance in the fund equals or exceeds \$20 million. The oil-field cleanup regulatory fees on oil and gas shall not be collected or required to be paid on or after the first day of the second month following the certification, except that the comptroller shall resume collecting the fees on receipt of a commission certification that the fund has fallen below \$10 million. The comptroller shall continue collecting the fees until collections are again suspended in the manner provided by this subsection.

(c) The fund consists of:

(1) penalties imposed under Section 85.381 for violation of a law, order, or rule relating to well plugging requirements;

(2) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;

(3) private contributions, including contributions made under Section 89.084;

(4) expenses collected under Section 89.083;

(5) fees imposed under Section 85.2021;

(6) civil penalties collected for violations of Chapter 89 or of rules or orders relating to plugging that are adopted under this code;

(7) proceeds collected under Sections 89.085 and 91.115;

(8) interest earned on the funds deposited in the fund;

(9) civil penalties or costs recovered under Section 91.457 or 91.459;

(10) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;

(11) costs recovered under Section 91.113(f);

(12) hazardous oil and gas waste generation fees collected under Section 91.605;

(13) oil-field cleanup regulatory fees on oil collected under Section 81.116;

(14) oil-field cleanup regulatory fees on gas collected under Section 81.117;

(15) fees for a reissued certificate collected under Section 85.167;
(16) fees collected under Section 91.1013;
(17) fees collected under Section 89.088;
(18) penalties collected under Section 81.0531;
(19) fees collected under Section 91.142;
(20) fees collected under Section 91.654;
(21) costs recovered under Sections 91.656 and 91.657;
(22) two-thirds of the fees collected under Section 81.0521; and

(23) legislative appropriations.

(d) All revenues and balances in the oil-field cleanup fund created in this section are exempt from Section 403.094(h) and Section 403.095(b), Government Code.

(e) The commission, through the legislative appropriations request process, shall establish specific performance goals for the oil-field cleanup fund for the next biennium, including goals for the number of:

(1) site investigations and environmental assessments to be conducted;

(2) abandoned wells to be plugged; and

(3) surface locations to be remediated.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 515, Sec. 6, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 1089, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 30, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 489, Sec. 6, eff. June 17, 2005.

Sec. 91.112. PURPOSE OF THE FUND. (a) Money in the fund may be used by the commission or its employees or agents for:

(1) conducting a site investigation or environmental assessment to determine:

(A) the nature and extent of contamination caused by oil and gas wastes or other substances or materials regulated by the commission under Section 91.101; and

(B) the measures that should be taken to control or clean up the wastes, substances, or materials described in Paragraph (A);

(2) controlling or cleaning up oil and gas wastes or other substances or materials regulated by the commission under Section 91.101 that are causing or are likely to cause the pollution of surface or subsurface water, consistent with Section 91.113;

(3) plugging abandoned wells and administering or enforcing permits, orders, and rules relating to the commission's authority to prevent pollution under this chapter, Chapter 89, or any other law administered or enforced by the commission under Title 3;

(4) implementing Subchapter N and enforcing rules, orders, and permits adopted or issued under that subchapter;

(5) implementing the voluntary cleanup program under Subchapter O;

(6) preparing the report required under Subsection (b);

(7) making payments to eligible operators under Section 89.047; and

(8) making payments to eligible surface estate owners under Section 89.048.

(b) The commission shall submit to the legislature and make available to the public, annually, a report that reviews the extent to which money provided under Section 91.111 has enabled the commission to better protect the environment and enhance the income of the oil-field cleanup fund. The report shall include:

(1) the number of wells plugged, by region;

(2) the number of wells abandoned, by region;

(3) the number of inactive wells not currently in compliance with commission rules, by region;

(4) the status of enforcement proceedings for all wells in violation of commission rules and the time period during which the wells have been in violation, by region in which the wells are located;

(5) the number of surface locations remediated, by region;

(6) a detailed accounting of expenditures of money in the fund, including expenditures for site investigations and environmental assessments, plugging of abandoned wells, remediation of surface locations, and staff salaries and other

administrative expenses;

(7) the method by which the commission sets priorities by which it determines the order in which abandoned wells are plugged;

(8) a projection of the amount of money needed for the next biennium for conducting site investigations and environmental assessments, plugging abandoned wells, and remediating surface locations;

(9) the status of implementation of the provisions of Section 89.085 relating to possession and sale of equipment to recover plugging costs; and

(10) the number of sites successfully remediated under the voluntary cleanup program under Subchapter O, by region.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 120, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1233, Sec. 31, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 267, Sec. 5, eff. Jan. 1, 2006.

Sec. 91.113. INVESTIGATION, ASSESSMENT, OR CLEANUP BY COMMISSION. (a) If oil and gas wastes or other substances or materials regulated by the commission under Section 91.101 are causing or are likely to cause the pollution of surface or subsurface water, the commission, through its employees or agents, may use money in the oil-field cleanup fund to conduct a site investigation or environmental assessment or control or clean up the oil and gas wastes or other substances or materials if:

(1) the responsible person has failed or refused to control or clean up the oil and gas wastes or other substances or materials after notice and opportunity for hearing;

(2) the responsible person is unknown, cannot be found, or has no assets with which to control or clean up the oil and gas wastes or other substances or materials; or

(3) the oil and gas wastes or other substances or materials are causing the pollution of surface or subsurface water.

(b) For purposes of this section, "responsible person" means any operator or other person required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials.

(c) The commission or its employees or agents, on proper identification, may enter the land of another for the purpose of conducting a site investigation or environmental assessment or controlling or cleaning up oil and gas wastes or other substances or materials under this section.

(d) The conducting of a site investigation or environmental assessment or the control or cleanup of oil and gas wastes or other substances or materials by the commission under this section does not prevent the commission from seeking penalties or other relief provided by law from any person who is required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials.

(e) The commission and its employees are not liable for any damages arising from an act or omission if the act or omission is part of a good-faith effort to carry out this section.

(f) If the commission conducts a site investigation or environmental assessment or controls or cleans up oil and gas wastes or other substances or materials under this section, the commission may recover all costs incurred by the commission from any person who was required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials. The commission by order may require the person to reimburse the commission for those costs or may request the attorney general to file suit against the person to recover those costs. At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under this subsection. A suit under this subsection may be filed in any court of competent jurisdiction in Travis County. Costs recovered under this subsection shall be deposited to the oil-field cleanup fund.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 120, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 57, Sec. 3, eff. May 10, 1999.

Sec. 91.1131. RISK ASSESSMENT STANDARDS. (a) The commission by rule may establish risk assessment as the guide for:

(1) conducting site investigations and environmental assessments; and

(2) controlling and cleaning up oil and gas wastes and other substances and materials.

(b) Rules adopted under this section must provide for:

(1) determining whether an actual or potential risk exists at a site;

(2) screening contaminants at the site to identify those that pose a risk;

(3) developing cleanup standards based on contamination levels that are protective of human health and the environment; and

(4) establishing a reporting mechanism for informing the commission regarding specific remediation activities.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 32, eff. Sept. 1, 2001.

Sec. 91.1132. PRIORITIZATION OF HIGH-RISK WELLS. The commission by rule shall develop a system for:

(1) identifying abandoned wells that pose a high risk of contaminating surface water or groundwater;

(2) periodically testing high-risk wells by conducting a fluid level test or, if necessary, a pressure test; and

(3) giving priority to plugging high-risk wells with compromised casings.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 32, eff. Sept. 1, 2001.

Sec. 91.1135. OIL-FIELD CLEANUP FUND ADVISORY COMMITTEE. (a) In this section, "committee" means the Oil-Field Cleanup Fund Advisory Committee.

(b) The committee is composed of 10 members as follows:

(1) one member of the senate appointed by the lieutenant governor;

(2) the presiding officer of the house committee with primary jurisdiction over matters affecting energy resources;

(3) one public member appointed by the governor;

(4) one member appointed by the lieutenant governor from the academic field of geology or economics;

(5) one member appointed by the speaker of the house of representatives from the academic field of geology or economics; and

(6) the executive officer, or a person designated by the executive officer, of each of the following organizations:

(A) the Texas Oil and Gas Association;

(B) the Texas Independent Producers and Royalty Owners Association;

(C) the Panhandle Producers and Royalty Owners Association;

(D) the Permian Basin Petroleum Association; and

(E) the Alliance of Energy Producers.

(c) An appointed member of the committee serves at the will of the authority that appointed the member.

(d) The committee shall:

(1) meet at least quarterly with the commission;

(2) receive information about rules proposed by the commission relating to the oil-field cleanup fund;

(3) review recommendations for legislation proposed by the commission; and

(4) monitor the effectiveness of the oil-field cleanup fund.

(e) The commission shall provide quarterly reports to the committee and the Legislative Budget Board that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:

(A) the amount of money deposited in the oil-field cleanup fund;

(B) the amount of money spent from the fund;

(C) the balance of the fund;

(D) the number of wells plugged with money from the fund;

(E) the number of sites remediated with money from the fund; and

(F) the number of wells abandoned; and

(2) any additional information or data requested in writing by the committee.

(f) The committee may:

(1) submit to the commission comments of the committee

regarding proposed rules relating to the oil-field cleanup fund; and

(2) request reports and other information from the commission as necessary to implement this section.

(g) Not later than November 15 of each even-numbered year, the committee shall report to the governor, lieutenant governor, and speaker of the house of representatives on the committee's activities. The report must include:

(1) an analysis of any problems with the administration of the oil-field cleanup fund; and

(2) recommendations for any legislation needed to address any problems identified with the administration of the fund or otherwise needed to further the purposes of the fund.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 32, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1328, Sec. 11, eff. June 21, 2003.

Sec. 91.114. ACCEPTANCE OF ORGANIZATION REPORT OR APPLICATION FOR PERMIT; APPROVAL OF CERTIFICATE OF COMPLIANCE; REVOCATION. (a) Except as provided by Subsection (d), the commission may not accept an organization report required under Section 91.142 or an application for a permit under this Chapter, Chapter 85, or Chapter 26, 27, or 29, Water Code, or approve a certificate of compliance under Section 85.161 if:

(1) the organization that submitted the report, application, or certificate violated a statute or commission rule, order, license, certificate, or permit that relates to safety or the prevention or control of pollution; or

(2) a person who holds a position of ownership or control in the organization has, within the seven years preceding the date on which the report, application, or certificate is filed, held a position of ownership or control in another organization and during that period of ownership or control the other organization violated a statute or commission rule, order, license, permit, or certificate that relates to safety or the prevention or control of pollution.

(b) An organization has committed a violation if:

(1) a final judgment or final administrative order finding the violation has been entered against the organization and all appeals have been exhausted; or

(2) the commission and the organization have entered into an agreed order relating to the alleged violation.

(c) Regardless of whether the person's name appears or is required to appear on the organization report required by Section 91.142, a person holds a position of ownership or control in an organization if:

(1) the person is:

(A) an officer or director of the organization;

(B) a general partner of the organization;

(C) the owner of a sole proprietorship organization;

(D) the owner of at least 25 percent of the beneficial interest in the organization; or

(E) a trustee of the organization; or

(2) the person has been determined by a final judgment or final administrative order to have exerted actual control over the organization.

(d) The commission shall accept the report or application or approve the certificate if:

(1) the conditions that constituted the violation are corrected or are being corrected in accordance with a schedule to which the commission and the organization have agreed;

(2) all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the state relating to those conditions are paid or are being paid in accordance with a payment schedule to which the commission and the organization have agreed; and

(3) the report, application, or certificate is in compliance with all other requirements of law and commission rules.

(e) If a report or application is rejected or a certificate is disapproved under this section, the commission shall provide the organization with a written statement explaining the reason for the rejection or disapproval.

(f) Notwithstanding Subsection (a), the commission may issue a permit to an organization described by Subsection (a) for a term specified by the commission if the permit is necessary to

remedy a violation of law or commission rules.

(g) A fee tendered in connection with a report or application that is rejected under this section is nonrefundable.

(h) If the commission is prohibited by Subsection (a) from accepting an organization's organization report or application or approving the organization's certificate or would be prohibited from doing so by that subsection if the organization submitted a report, application, or certificate, the commission, after notice and opportunity for a hearing, by order may revoke:

(1) the organization's organization report filed under Section 91.142;

(2) a permit issued to the organization under this chapter, Chapter 85, or Chapter 26, 27, or 29, Water Code; or

(3) any certificate of compliance approved under Section 85.161.

(i) An order under Subsection (h) shall provide the organization a reasonable period of time to comply with the judgment or order finding the violation before the revocation takes effect.

(j) On revocation of its organization report, an organization may not perform any activities under the jurisdiction of the commission under this title or Chapter 26, 27, or 29, Water Code, except as necessary to remedy a violation of law or commission rules and as authorized by the commission.

(k) The commission may not revoke an organization's organization report, permit, or certificate of compliance under Subsection (h) if it finds that the organization has fulfilled the conditions set out in Subsection (d).

(l) In determining whether or not to revoke an organization's organization report, permit, or certificate of compliance under Subsection (h), the commission shall consider the organization's history of previous violations, the seriousness of previous violations, any hazard to the health or safety of the public, and the demonstrated good faith of the organization.

(m) Revocation of an organization's organization report, permit, or certificate does not relieve the organization of any existing or future duty under law, rules, or permit conditions to:

(1) protect surface or subsurface water from pollution;

(2) properly dispose of oil and gas waste; or

(3) clean up unpermitted discharges of oil and gas waste.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 13, eff. Sept. 1, 1991. Renumbered from Sec. 91.110 by Acts 1993, 73rd Leg., ch. 107, Sec. 10.01(10), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 617, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 121, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 30, Sec. 3, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 956, Sec. 1, eff. June 20, 2003.

Sec. 91.115. FIRST LIEN ON EQUIPMENT AND STORED HYDROCARBONS. (a) If a responsible person fails to clean up a site or facility that has ceased oil and gas operations under the commission's jurisdiction on or before the date the site or facility is required to be cleaned up by law or by a rule adopted or order issued by the commission, the state has a first lien, superior to all preexisting and subsequent liens and security interests, on the responsible person's interest in any hydrocarbons stored at the site or facility and in any equipment that is:

(1) located at the site or facility; and

(2) used by the responsible person in connection with the activity that generated the pollution.

(b) The lien is in the amount of the total costs of cleaning up the oil and gas wastes or other substances from the site or facility and arises on the date the site or facility is required by law or by a rule or order of the commission to be cleaned up.

(c) The commission may foreclose on the lien by entering into a contract to clean up the site or facility. The commission is not required to give notice or an opportunity for a hearing to subordinate lienholders before entering into a contract to clean up the site or facility.

(d) The lien is extinguished if the site or facility is cleaned up in accordance with commission rules by any person before the commission enters into a contract to clean up the site or facility.

(e) The lien is extinguished as to any stored hydrocarbons

or items of equipment that are lawfully removed by any person other than the operator or a nonoperator according to a lien, lease, judgment, written contract, or security agreement before the commission enters into a cleanup contract. An item of equipment may not be removed from an abandoned site or facility if the removal will cause the release of a substance that may cause pollution unless the substance is lawfully disposed of.

(f) Equipment or stored hydrocarbons subject to a lien under this section are presumed to have been abandoned on the date the commission enters into a contract to clean up the site or facility on which the equipment or hydrocarbons are located. The commission may dispose of the equipment or stored hydrocarbons in accordance with the provisions of Sections 89.085, 89.086, and 89.087 of this code for the disposition of well-site equipment and hydrocarbons.

(g) In this section "responsible person" has the meaning assigned by Section 91.113 of this code.

(h) The lien provided by this section, as it relates to stored hydrocarbons, shall be subject to and inferior to any lien in favor of the State of Texas to secure royalty payments.

Added by Acts 1993, 73rd Leg., ch. 515, Sec. 7, eff. Jan. 1, 1994.
Amended by Acts 2003, 78th Leg., ch. 1121, Sec. 1, 2, eff. Sept. 1, 2003.

Sec. 91.116. NOTICE OF COMMERCIAL SURFACE DISPOSAL FACILITY PERMIT APPLICATION. (a) In this section, "commercial surface disposal facility" means a facility whose primary business purpose is to provide, for compensation, surface disposal of oil field fluids or oil and gas wastes, including land application for treatment and disposal.

(b) A person who files an application for a permit for a commercial surface disposal facility shall publish notice of the application in accordance with this section.

(c) The notice must include:

- (1) the date the application was filed;
- (2) a description of the location of the site for which the application was made, including the county in which the site is located, the name of the original survey and abstract number, and the direction and distance from the nearest municipality;
- (3) the name of the owner of the site;
- (4) the name of the applicant;
- (5) the type of fluid or waste to be disposed of at the facility;
- (6) the disposal method proposed; and
- (7) the procedure for protesting the application.

(d) The notice must be published:

- (1) at least once each week for two consecutive weeks with the first publication occurring not earlier than the date the application is filed and not later than the 30th day after the date on which the application is filed; and
- (2) in a newspaper of general circulation in the county in which the proposed disposal would occur.

Added by Acts 1999, 76th Leg., ch. 668, Sec. 1, eff. Sept. 1, 1999.

Sec. 91.117. PUBLIC INFORMATION HEARING ON APPLICATION FOR COMMERCIAL SURFACE DISPOSAL FACILITY PERMIT. (a) In this section, "commercial surface disposal facility" has the meaning assigned by Section 91.116.

(b) The commission may hold a public meeting to receive public comment on an application for a commercial surface disposal facility if the commission determines a public meeting is in the public interest.

(c) The meeting must be held in the county in which the proposed facility would be located.

Added by Acts 1999, 76th Leg., ch. 668, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. BOOKS, RECORDS, AND REPORTS

Sec. 91.141. BOOKS AND RECORDS. (a) Owners and operators of oil and gas wells shall keep books that show accurately:

- (1) the amount of sold and unsold stock;
- (2) the amount of promotion money paid;
- (3) the amount of oil and gas produced and disposed of and the price for which the oil and gas was sold;
- (4) the receipts from the sale or transfer of leases or other property; and
- (5) disbursements made in connection with or for the benefit of the business.

(b) The books shall be kept open for the inspection of the commission or any accredited representative of the commission and

any stockholder or shareholder or royalty owner in the business.

(c) The owners and operators of oil and gas wells shall report the information to the commission for its information if required by the commission to do so.

Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 91.142. REPORT TO COMMISSION. (a) A person, firm, partnership, joint stock association, corporation, or other domestic or foreign organization operating wholly or partially in this state and acting as principal or agent for another for the purpose of performing operations which are within the jurisdiction of the commission shall file immediately with the commission:

- (1) the name of the company or organization;
- (2) the post-office address of the company or organization;
- (3) the plan under which the company or organization was organized;
- (4) the names and post-office addresses of the trustee or trustees of the company or organization;
- (5) the names, unique identifying numbers such as driver's license numbers, and post-office addresses of the officers and directors; and
- (6) if required by Subsection (b) of this section, the name and address of the resident agent.

(b) Any foreign or nonresident entity listed in Subsection (a) of this section shall maintain or designate a resident agent upon whom any process, notice, or demand required or permitted by law to be served upon such entity may be served.

(c) If any such entity required by the terms of this section to maintain or designate such agent shall fail to do so, then and in such event, the organization report required to be filed with the commission is not valid.

(d) Failure by any such entity listed in Subsection (a) of this section to answer such process or demand shall render the organization report invalid.

(e) The commission shall require an entity described by Subsection (a) of this section to refile an organization report annually according to a schedule established by the commission.

(f) If an entity described by Subsection (a) of this section does not maintain on file with the commission an organization report and financial security as required by this chapter:

(1) the entity may not perform operations under the jurisdiction of the commission except as necessary to remedy a violation of law or commission rules and as authorized by the commission; and

(2) the commission, on written notice, may suspend:
(A) any permits held by the entity; or
(B) any certificates of compliance approved under Chapter 85 of this code.

(g) An organization report filed under this section must be accompanied by the following fee:

- (1) for an operator of not more than 25 wells, \$300;
- (2) for an operator of more than 25 but not more than 100 wells, \$500;
- (3) for an operator of more than 100 wells, \$1,000;
- (4) for an operator of one or more natural gas pipelines as classified by the commission, \$225;
- (5) for an operator of one or more service activities or facilities who does not operate any wells, an amount determined by the commission but not less than \$300 or more than \$500;
- (6) for an operator of one or more liquids pipelines as classified by the commission who does not operate any wells, an amount determined by the commission but not less than \$425 or more than \$625;

(7) for an operator of one or more service activities or facilities, including liquids pipelines as classified by the commission, who also operates one or more wells, an amount determined by the commission based on the sum of the amounts provided by the applicable subdivisions of this subsection but not less than \$425 or more than \$1,125; and

(8) for an entity not currently performing operations under the jurisdiction of the commission, \$300.

(h) To enable the commission to better protect the state's resources, an entity described by Subsection (a) or an affiliate of such an entity performing operations within the jurisdiction of the

commission that files for federal bankruptcy protection shall give written notice to the commission of that action by submitting the notice to the office of general counsel not later than the 30th day after the date of filing.

Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 398, Sec. 1, eff. Aug. 26, 1985; Acts 1997, 75th Leg., ch. 121, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1233, Sec. 33, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 490, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 626, Sec. 1, eff. Sept. 1, 2003.

Sec. 91.143. FALSE APPLICATIONS, REPORTS, AND DOCUMENTS AND TAMPERING WITH GAUGES. (a) A person may not:

(1) make or subscribe any application, report, or other document required or permitted to be filed with the commission by the provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, knowing that the application, report, or other document is false or untrue in a material fact;

(2) aid or assist in, or procure, counsel, or advise the preparation or presentation of any of these applications, reports, or other documents that are fraudulent, false, or incorrect in any material matter, knowing them to be fraudulent, false, or incorrect in any material matter;

(3) knowingly simulate or falsely or fraudulently execute or sign such an application, report, or other document;

(4) knowingly procure these applications, reports, or other documents to be falsely or fraudulently executed, or advise, aid in, or connive at this execution; or

(5) knowingly render inaccurate any monitoring device required to be maintained by a commission rule, order, or permit.

(b) A person commits an offense if the person violates this section. An offense under this section is a felony punishable by:

(1) imprisonment in the institutional division of the Texas Department of Criminal Justice for a term of not less than two years or more than five years;

(2) a fine of not more than \$10,000; or

(3) both the imprisonment and the fine.

(c) If other penalties prescribed in Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, overlap offenses that are also punishable under this section, the penalties prescribed in this section shall be in addition to other penalties.

(d) No application, report, or other document required or permitted to be filed with the commission under Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, may be required to be under oath, verification, acknowledgment, or affirmation.

(e) The commission may impose an administrative penalty in the manner provided by Sections 81.0531-81.0534 on a person who violates this section. The amount of the penalty may not exceed \$1,000 for each violation.

Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, Sec. 1, eff. Sept. 1, 1983; Acts 1999, 76th Leg., ch. 31, Sec. 1, eff. Aug. 30, 1999.

SUBCHAPTER F. UNDERGROUND NATURAL GAS STORAGE AND CONSERVATION

Sec. 91.171. SHORT TITLE. This subchapter may be cited as the Underground Natural Gas Storage and Conservation Act of 1977. Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.172. DECLARATION OF POLICY. The underground storage of natural gas promotes the conservation of natural gas, permits the building of reserves for orderly withdrawal in periods of peak demand, makes more readily available natural gas resources to residential, commercial, and industrial customers of this state, provides a better year-round market to the various gas fields, and promotes the public interest and welfare of this state.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.173. DEFINITIONS. In this subchapter:

(1) "Person" means any natural person, partnership or other combination of natural persons, corporation, group of corporations, trust, or governmental entity.

(2) "Gas utility" means a gas utility as defined in Section 101.003, Utilities Code, or Subchapter A, Chapter 121,

Utilities Code.

(3) "Natural gas" means any gaseous material composed predominantly of the following hydrocarbons or mixtures thereof: methane, ethane, propane, butane (normal or isobutane), in either its original or manufactured state, or gas which has been processed to separate it into one or more of its component parts after its withdrawal from the earth.

(4) "Native gas" means:

(A) natural gas which has not previously been withdrawn from the earth; or

(B) natural gas which has been withdrawn from the storage facility, processed, and reinjected into the storage facility.

(5) "Storage facility" means any subsurface sand, stratum, or formation used or to be used for the underground storage of natural gas and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the underground storage of natural gas.

(6) "Storer" means (A) a gas utility, (B) a wholly owned subsidiary of a gas utility, (C) the parent corporation of a gas utility, or (D) a wholly owned subsidiary of a parent corporation which also wholly owns a subsidiary gas utility, but a nonutility storer included in category (B), (C), or (D) must operate the storage facility pursuant to a contract with its affiliated gas utility that provides that all withdrawals of natural gas from the storage facility must be delivered to the affiliated gas utility.

(7) "Substantially depleted" means that at least 75 percent of the estimated volume of recoverable native gas reserves originally in place in any gas-bearing sand, formation, or stratum have been withdrawn from the sand, formation, or stratum.

(8) "Interested person" means any person who enters an appearance at the commission hearing required by Section 91.174 of this code.

(9) "Commission" means the Railroad Commission of Texas.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.41, eff. Sept. 1, 1999.

Sec. 91.174. FINDINGS OF COMMISSION. (a) Any storer desiring to exercise the right of eminent domain for the acquisition of a storage facility shall, as a condition precedent to the filing of its petition in the appropriate court, obtain from the commission an order finding:

(1) that the underground formation or stratum sought to be acquired is classified by the commission as a gas reservoir and is suitable for the underground storage of natural gas and that the storage of natural gas is necessary for the gas utility to provide adequate service to the public and is in the public interest;

(2) that the use of the formation or stratum as a storage facility will cause no injury to surface or underground water resources;

(3) that the formation or stratum does not contain native gas producible in paying quantities unless the recoverable volumes of native gas originally in place are substantially depleted and unless the formation or stratum has a greater value of ultimate use to the consuming public as a storage facility to ensure an adequate supply of natural gas or for the conservation of natural gas than the production of native gas which remains;

(4) the extent of the horizontal limits of the reservoir expected to be penetrated by displaced or injected gas; and

(5) that no portion of the formation or stratum sought to be acquired has been condemned or is being utilized for the injection, storage, and withdrawal of gas by others.

(b) The designation of a storage facility does not prevent any storer from instituting additional proceedings in the event it is later determined that the underground reservoir should be extended to prevent the escape, displacement, or withdrawal by others of injected gas.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.175. COMMISSION JURISDICTION. The commission shall have jurisdiction to supervise the construction and operation of

all storage facilities formed pursuant to this subchapter, and in addition to the findings required by Section 91.174 of this code, the commission shall include in any order of approval a requirement that the storer file a report each month, including each month prior to the time the storage facility is in operation, with the commission showing, for that month, the volume of gas injected and stored gas withdrawn from storage.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.176. WITHDRAWAL OF NATIVE GAS. A storer may withdraw from storage injected and stored gas as market demand dictates. However, any time a storer's withdrawals from a storage facility equal the volume of gas injected for storage, the storer shall not withdraw additional gas from the storage facility without first obtaining specific authority from the commission.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.177. STORAGE OPERATIONS MUST BE BONA FIDE. (a) A storer must initiate injection operations for gas storage within 12 months after the condemnation order of the court becomes final and storage operations must continue with reasonable diligence after that time.

(b) Should the monthly reports to the commission indicate that bona fide underground gas storage operations are not being conducted, the commission may, on its own motion or on motion of any interested person, schedule a public hearing, giving the storer the opportunity to show cause why the commission approval of the project should not be withdrawn.

(c) If the commission finds that the storage project is not being conducted in a bona fide manner, it shall issue an order withdrawing approval of the storage facility, and all property, both mineral and surface, that was condemned by the storer shall revert to those who owned the property at the time of condemnation or their successors.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.178. RELOCATION OF FACILITIES. In the event the acquisition or operation of a storage facility acquired through the exercise of the power of eminent domain requires the relocation or alteration of any railroad, electric, telegraph, telephone, or pipeline lines or facilities, the expense of the relocation or alteration shall be borne by the storer. The expense of relocation means the actual cost incurred in providing a comparable replacement line or facility, less net salvage value from the sale or other disposition of the old facility.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.179. APPROPRIATION OF STORAGE FACILITIES; LIMITATIONS. After an order of the commission is issued approving a storage facility, a storer may condemn without further attack as to its right to condemn, any subsurface sand, stratum, or formation for the underground storage of natural gas, condemning all mineral and royalty rights as are reasonably necessary for the operation of the storage facility, subject to the limitations of this subchapter, and the storer may condemn any other interests in property that may be required, including interests in the surface estate in the sand, stratum, or formation reasonably necessary to the operation of the storage facility, provided that:

(1) no part of a reservoir is subject to condemnation unless the storer has acquired by option, lease, conveyance, or other negotiated means at least $66\frac{2}{3}$ percent of the ownership of minerals, including working interests, and $66\frac{2}{3}$ percent of the ownership of the royalty interests, computed in relation to the surface area overlying the part of the reservoir which as found by the commission to be expected to be penetrated by displaced or injected gas;

(2) no dwelling, barn, store, or other building is subject to condemnation; and

(3) the right of condemnation is without prejudice to the rights of the owners or holders of other rights or interests of land to drill through the storage facility under such terms and conditions as the commission may prescribe for the purpose of protecting the storage facility against pollution or escape of natural gas and is without prejudice to the rights of the owners or holders of other rights or interests of the land to all other uses

so long as those uses do not interfere with the operation of the storage facility.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.180. INSTITUTION OF CONDEMNATION PROCEEDINGS. (a) The finding by the commission that underground storage is in the public interest is binding on all persons whose property the storer has the right to condemn. After that finding of the commission, the storer has the right to condemn all of the underground storage area and any surface area required for the use and enjoyment of the storage facility.

(b) The storer shall initiate eminent domain proceedings in the court having jurisdiction in the area in which a portion of the land is situated. The petition shall set forth the purpose for which the property is sought to be acquired, a description of the land, stratum, or formation and of the land under which it is alleged to be contained, the names of the owners as shown by the deed records of the county, and a description of all other property and rights sought to be appropriated for use in connection with the storage facility, including any parts of the surface necessary for any facilities incidental to the operation of the storage facility.

(c) The petition shall state facts showing that the storer has obtained the findings of the commission required by Section 91.174 of this code, that the storer in good faith has been unable to acquire the rights sought to be appropriated, that the storer has acquired, prior to the filing of the petition, by any means other than condemnation, at least $66\frac{2}{3}$ percent of the ownership of the minerals, including working interests, and $66\frac{2}{3}$ percent of the royalty interests of the property rights in the storage facility required for that purpose, and shall describe the surface area overlying the storage facility the storer seeks to acquire and the names of the owners of those rights and interests.

(d) Where more than one tract of land is involved, all or any tracts may be joined in one proceeding, without prejudice to the right of the storer to institute additional proceedings; provided, that the failure to make service upon a defendant does not affect the right of the storer to proceed against any or all other of the defendants upon whom service has been made.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.181. EXERCISE OF RIGHT OF EMINENT DOMAIN. All proceedings in connection with the condemnation and acquisition of storage facilities shall be in accordance with Articles 3264 through 3271, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict between those articles and this subchapter, the provisions of this subchapter prevail.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.182. OWNERSHIP OF STORED GAS. All natural gas in the stratum condemned which is not native gas, and which is subsequently injected into storage facilities is personal property and is the property of the injector or its assigns, and in no event is the gas subject to the right of the owner of the surface of the land or of any mineral or royalty owner's interest under which the storage facilities lie, or of any person other than the injector to produce, take, reduce to possession, either by means of the law of capture or otherwise, waste, or otherwise interfere with or exercise any control over a storage facility. Upon failure, neglect, or refusal of the person to comply with this section, the storer has the right to compel compliance by injunction or by other appropriate relief by application to a court of competent jurisdiction.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.183. RIGHTS OF PURCHASERS OF NATIVE GAS. (a) In the event there are remaining reserves of native gas in the storage facility which are dedicated to a purchaser and the purchaser and storer are unable to agree on an equitable settlement of rights with respect to the remaining native gas within a period of time that will prevent interference with the operation of the storage facility, the storer or purchaser may apply to the commission for an adjudication concerning remaining reserves of native gas.

(b) Upon application, the commission shall direct a settlement of remaining reserves of native gas that is equitable to all parties, but which does not interfere with the public benefits

arising from the operation of the storage facility.

(c) In addition to any other disposition that is equitable to all parties, the commission may make a finding of the quantity of remaining recoverable native gas and an allocation of future production on a reasonable production schedule and order delivery to the purchaser by the storer of the amounts of native gas that the commission finds would have been taken by the purchaser during the term of the purchase agreement.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

Sec. 91.184. ABANDONMENT. (a) When a storer has permanently abandoned the storage facility, the storer shall file with the commission a notice of abandonment, and shall file an instrument in the deed records in the appropriate county or counties, stating that the storage has ceased, and that all property, both mineral and surface, condemned by the storer has reverted to those who owned the property at the time of condemnation, or their heirs, successors, or assigns.

(b) The storer shall also file in the deed records in the appropriate county or counties a list of the owners of the mineral, royalty, and surface owners to whom the various interests have reverted, together with an affidavit that the storer has compiled the list from a current examination of title records and that the list is true and correct to the best of the knowledge of the affiant.

Added by Acts 1979, 66th Leg., p. 1996, ch. 785, Sec. 3, eff. June 13, 1979.

SUBCHAPTER G. UNDERGROUND HYDROCARBON STORAGE

Sec. 91.201. DEFINITIONS. In this subchapter:

(1) "Underground hydrocarbon storage facility" or "storage facility" means a subsurface sand, stratum, or geological formation used for the underground storage of hydrocarbons, and includes surface or subsurface rights and appurtenances necessary for the operation of the facility.

(2) "Hydrocarbons" means oil, gas, or products of oil or gas, as those terms are defined by Section 85.001 of this code.

(3) "Waste" means surface or subsurface waste, as defined by Section 85.046 of this code, of hydrocarbons, including, but not limited to, the physical or economic waste or loss of hydrocarbons in the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

(4) "Commission" means the Railroad Commission of Texas.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

Sec. 91.202. POLICY. It is the policy of this state and the purpose of this subchapter to prevent the waste of oil, gas, and products of oil or gas, to protect the ground and surface water of the state from unreasonable degradation, and to protect the public health, welfare, and physical property in the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

Sec. 91.203. AUTHORITY; RULES. (a) The commission shall supervise or monitor the construction, operation, maintenance, and closure of storage facilities.

(b) The commission may adopt reasonable rules or issue reasonable orders to implement the policies of this subchapter and may establish minimum standards regulating the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities. The rules and standards of the commission may include, but are not limited to, requirements for monitoring, recordkeeping, and reporting, the drilling and creation of the facility, selecting the site of the facility, and for proper closure of the facility on abandonment.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

Sec. 91.204. PERMITS. (a) The commission by rule may require a person who creates, operates, maintains, or abandons an underground hydrocarbon storage facility to obtain a permit from the commission. A permit issued by the commission may contain provisions and conditions necessary to implement the policies of this subchapter. The commission may adopt reasonable rules for the amendment, revocation, transfer, or suspension of a permit.

(b) A person desiring to obtain a permit or to amend a permit must submit an application containing the information required by the commission.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

Sec. 91.205. AUTHORITY TO ENTER PROPERTY. Members and employees of the commission may enter public or private property at reasonable times to inspect and investigate conditions relating to the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility. The members and employees may not enter private property having management in residence without notifying the management of their presence and shall observe safety, internal security, and fire protection rules of the establishment being inspected.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

Sec. 91.206. AUTHORITY TO EXAMINE RECORDS. Members and employees of the commission may examine and copy during regular business hours records pertaining to the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

Sec. 91.207. NOTICE OF NONCOMPLIANCE. (a) On receipt of notice from the commission that a person creating, operating, maintaining, or abandoning an underground hydrocarbon storage facility has violated this subchapter or a term, condition, or provision of a permit issued under this subchapter, an operator of the pipeline or other carrier connected to the facility shall disconnect from the facility and shall remain disconnected from the facility until notice of compliance has been received from the commission.

(b) On receipt of notice from the commission of a violation of this subchapter, a rule of the commission issued under this subchapter, or a term, condition, or provision of a permit issued under this subchapter, the owner or operator of an underground hydrocarbon storage facility shall discontinue any removal of hydrocarbons from the facility or any addition of hydrocarbons to the facility and may not begin or renew removal of hydrocarbons from the facility or begin or renew addition of hydrocarbons to the facility until notice of compliance has been received from the commission.

Added by Acts 1981, 67th Leg., p. 3167, ch. 830, Sec. 3, eff. June 17, 1981.

SUBCHAPTER H. UNDERGROUND STORAGE FACILITIES FOR NATURAL GAS

Sec. 91.251. DEFINITIONS. In this subchapter:

(1) "Intrastate gas pipeline facility" has the meaning assigned by the United States Department of Transportation under Chapter 601, Title 49, United States Code (49 U.S.C. Section 60101 et seq.), and its subsequent amendments.

(2) "Natural gas" means any gaseous material composed primarily of methane in either its original or its manufactured state.

(3) "Natural gas underground storage" means the storage of natural gas beneath the surface of the earth in a formation, stratum, or reservoir.

(4) "Storage facility" has the meaning assigned by Section 91.173.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.252. COMMISSION JURISDICTION. (a) The commission has jurisdiction over:

(1) natural gas underground storage; and

(2) surface and subsurface equipment and facilities used for natural gas underground storage.

(b) This subchapter does not apply to a storage facility that is:

(1) part of an interstate gas pipeline facility as defined by the United States Department of Transportation; and

(2) subject to federal minimum standards adopted under Chapter 601, Title 49, United States Code (49 U.S.C. Section 60101 et seq.), and its subsequent amendments.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.253. COMMISSION ENFORCEMENT. (a) In addition to other authority specifically granted to the commission under this subchapter, the commission may enforce this subchapter or a rule

adopted or an order or permit issued under this subchapter as provided by Section 91.207.

(b) Section 91.003 does not apply to this subchapter. Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.254. INSPECTION; EXAMINATION; CREDENTIALS. (a) The commission may inspect a storage facility for compliance with the safety standards and practices and the recordkeeping requirements adopted under Sections 91.255, 91.257, and 91.258.

(b) To conduct an inspection under this section, a commissioner or a designated commission employee or agent may enter property on which a storage facility is located at a reasonable time and in a reasonable manner to examine:

(1) the facility and any related buildings or equipment; and

(2) the records required to be maintained at the storage facility under Section 91.258.

(c) A commissioner or a commission employee or agent may not enter the premises of a storage facility having personnel on the premises of the facility unless proper credentials are first presented to the person at the facility who is in charge of the property.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.255. SAFETY STANDARDS AND PRACTICES. (a) The commission by rule shall adopt safety standards and practices for natural gas underground storage and storage facilities. The standards and practices must:

(1) require the installation and periodic testing of safety devices;

(2) establish emergency notification procedures for the operator of a facility in the event of a release of a hazardous substance that poses a substantial risk to the public;

(3) establish fire prevention and response procedures;

(4) require training for the employees of the storage facility on the safe operation of the storage facility; and

(5) establish any other safety standard or practice that is reasonable and necessary for underground natural gas storage and the safe construction, operation, and maintenance of a storage facility.

(b) The commission may adopt different standards and practices for different types of storage facilities and may distinguish among natural gas underground storage in salt dome caverns, depleted reservoirs, and embedded salt formations.

(c) The commission may grant an exception to a standard or practice adopted under this section in a permit or amended permit issued to a storage facility if the exception will not constitute an unreasonable danger to the public.

(d) The commission may impose an additional standard or practice in a permit or amended permit issued to a storage facility.

(e) A safety standard or practice adopted by the commission for a storage facility that is part of an intrastate gas pipeline facility must be compatible with federal minimum standards.

(f) The commission shall require that records of safety device tests required by Subsection (a)(1) be:

(1) filed with the commission; or

(2) maintained by the owner or operator and made available for inspection by the commission.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.256. LIMITATION ON POWERS OF MUNICIPALITIES AND COUNTIES. A municipality or county may not adopt or enforce an ordinance that establishes a safety standard or practice applicable to a storage facility that is subject to regulation under this subchapter, another state law, or a federal law.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.257. SAFETY PROCEDURE MANUAL. The commission may require the owner or operator of a storage facility to prepare a safety procedure manual for each storage facility and to:

(1) file a copy of the manual with the commission; or

(2) make the manual available for inspection under Section 91.254.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.258. RECORDS; REPORTS. (a) An owner or operator of a storage facility shall:

(1) maintain records and make reports relating to construction, operation, or maintenance of the facility as required

by commission rule; and

(2) provide any other information required by the commission relating to construction, operation, or maintenance of the facility.

(b) The commission may provide forms for reports required under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.259. DAMAGE TO STORAGE FACILITY; DISABLING A SAFETY DEVICE. A person may not:

(1) intentionally damage or destroy a storage facility; or

(2) disable a safety device in a storage facility except to:

(A) repair, maintain, test, or replace the device; or

(B) conduct other activities that are reasonably necessary for the safe operation of the storage facility.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.260. INJUNCTION; CIVIL PENALTY. (a) The attorney general, at the request of the commission, shall bring a civil action against a person who has violated or is violating this subchapter or a rule adopted or an order or permit issued under this subchapter for:

(1) injunctive relief to restrain the person from the violation;

(2) the assessment and recovery of a civil penalty for a violation; or

(3) both injunctive relief and a civil penalty.

(b) A civil penalty assessed under this section may not exceed \$25,000 for each violation.

(c) Each day of a continuing violation may be considered a separate violation for the purpose of penalty assessment.

(d) The maximum penalty assessed for a related series of violations may not exceed \$500,000.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.261. ADMINISTRATIVE PENALTY. (a) The commission may assess, as provided by this section and Sections 91.262, 91.263, and 91.264, an administrative penalty against a person who violates this subchapter or a rule adopted or an order or permit issued under this subchapter.

(b) Except as provided by Subsection (c), the penalty for each violation may be in an amount not to exceed \$10,000. The maximum penalty assessed under this subsection for a related series of violations may not exceed \$200,000.

(c) The penalty for each violation of Section 91.259 may be in an amount not to exceed \$25,000. The maximum penalty assessed under this subsection for a continuing violation may not exceed \$300,000.

(d) Each day a violation continues or occurs may be considered a separate violation for the purpose of penalty assessment under Subsection (b) or (c).

(e) In determining the amount of the penalty, the commission shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.262. ADMINISTRATIVE PENALTY ASSESSMENT PROCEDURE. (a) An administrative penalty may be assessed only after the person charged under Section 91.261 has been given an opportunity for a public hearing. If a public hearing is held, the commission shall make findings of fact and issue a written decision as to the occurrence of the violation and the penalty amount warranted by the violation, incorporating, if appropriate, an order requiring that the penalty be paid. If appropriate, the commission shall consolidate the hearing with other proceedings.

(b) If a person charged under Section 91.261 fails to take advantage of the opportunity for a public hearing, a penalty may be

assessed by the commission after it has determined that a violation occurred and the penalty amount warranted by the violation. The commission shall then issue an order requiring the penalty to be paid.

(c) The commission shall give notice of the commission's order to the person charged with the violation as provided by Chapter 2001, Government Code. The notice must include a statement of the right of the person to judicial review of the order.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.263. PAYMENT OF ADMINISTRATIVE PENALTY. (a) Not later than the 30th day after the date on which the commission's order imposing an administrative penalty becomes final as provided by Section 2001.144, Government Code, the person charged with the violation shall:

- (1) pay the amount of the penalty;
- (2) pay the amount of the penalty and file a petition for judicial review contesting:
 - (A) the amount of the penalty;
 - (B) the fact of the violation; or
 - (C) both the amount of the penalty and the fact of the violation; or
- (3) without paying the amount of the penalty, file a petition for judicial review contesting:
 - (A) the amount of the penalty;
 - (B) the fact of the violation; or
 - (C) both the amount of the penalty and the fact of the violation.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

- (1) stay the enforcement of the penalty by:
 - (A) paying the amount of the penalty to the court for placement in an escrow account; or
 - (B) giving to the court a supersedeas bond in a form approved by the court that is effective until all judicial review of the order or decision is final; or
- (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and
 - (B) delivering a copy of the affidavit to the commission.

(c) If the commission receives a copy of an affidavit under Subsection (b), the commission may file a contest to the affidavit with the court not later than the fifth day after the date the copy is received. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(d) If the person does not pay the amount of the penalty and the penalty is not stayed, the commission may refer the matter to the attorney general for enforcement.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

Sec. 91.264. JUDICIAL REVIEW OF ADMINISTRATIVE PENALTY. (a) Judicial review of a commission order imposing an administrative penalty is:

- (1) instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and
- (2) under the substantial evidence rule.

(b) If the person paid the amount of the penalty and that amount is reduced or is not assessed by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank and shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond, the court shall order the release of the bond:

- (1) without further action by the person if the penalty is not assessed by the court; or
- (2) on payment of the penalty in the amount determined by the court.

(c) A penalty collected under this section shall be

deposited to the credit of the oil-field cleanup fund account.
Added by Acts 1997, 75th Leg., ch. 166, Sec. 5, eff. Sept. 1, 1997.

SUBCHAPTER J. PAYMENT FOR PROCEEDS OF SALE

Sec. 91.401. DEFINITIONS. In this subchapter:

(1) "Payee" means any person or persons legally entitled to payment from the proceeds derived from the sale of oil or gas from an oil or gas well located in this state.

(2) "Payor" means the party who undertakes to distribute oil and gas proceeds to the payee, whether as the purchaser of the production of oil or gas generating such proceeds or as operator of the well from which such production was obtained or as lessee under the lease on which royalty is due. The payor is the first purchaser of such production of oil or gas from an oil or gas well, unless the owner of the right to produce under an oil or gas lease or pooling order and the first purchaser have entered into arrangements providing that the proceeds derived from the sale of oil or gas are to be paid by the first purchaser to the owner of the right to produce who is thereby deemed to be the payor having the responsibility of paying those proceeds received from the first purchaser to the payee.

(3) "Division order" means an agreement signed by the payee directing the distribution of proceeds from the sale of oil, gas, casinghead gas, or other related hydrocarbons. The order directs and authorizes the payor to make payment for the products taken in accordance with the division order. When used herein "division order" shall also include "transfer order".

(4) "Transfer order" means an agreement signed by a payee and his transferee (new payee) directing the payor under the division order to pay another person a share in the oil or gas produced.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 650, Sec. 1, eff. Aug. 26, 1991.

Sec. 91.402. TIME FOR PAYMENT OF PROCEEDS. (a) The proceeds derived from the sale of oil or gas production from an oil or gas well located in this state must be paid to each payee by payor on or before 120 days after the end of the month of first sale of production from the well. After that time, payments must be made to each payee on a timely basis according to the frequency of payment specified in a lease or other written agreement between payee and payor. If the lease or other agreement does not specify the time for payment, subsequent proceeds must be paid no later than:

(1) 60 days after the end of the calendar month in which subsequent oil production is sold; or

(2) 90 days after the end of the calendar month in which subsequent gas production is sold.

(b) Payments may be withheld without interest beyond the time limits set out in Subsection (a) of this section when there is:

(1) a dispute concerning title that would affect distribution of payments;

(2) a reasonable doubt that the payee:

(A) has sold or authorized the sale of its share of the oil or gas to the purchaser of such production; or

(B) has clear title to the interest in the proceeds of production;

(3) a requirement in a title opinion that places in issue the title, identity, or whereabouts of the payee and that has not been satisfied by the payee after a reasonable request for curative information has been made by the payor.

(c)(1) As a condition for the payment of proceeds from the sale of oil and gas production to payee, a payor shall be entitled to receive a signed division order from payee containing only the following provisions:

(A) the effective date of the division order, transfer order, or other instrument;

(B) a description of the property from which the oil or gas is being produced and the type of production;

(C) the fractional and/or decimal interest in production claimed by payee, the type of interest, the certification of title to the share of production claimed, and, unless otherwise agreed to by the parties, an agreement to notify payor at least one month in advance of the effective date of any change in the interest in production owned by payee and an agreement to indemnify the payor and reimburse the payor for payments made if the payee does not have merchantable title to the production sold;

(D) the authorization to suspend payment to payee for production until the resolution of any title dispute or adverse claim asserted regarding the interest in production claimed by payee;

(E) the name, address, and taxpayer identification number of payee;

(F) provisions for the valuation and timing of settlements of oil and gas production to the payee; and

(G) a notification to the payee that other statutory rights may be available to a payee with regard to payments.

(2) Such a division order does not amend any lease or operating agreement between the interest owner and the lessee or operator or any other contracts for the purchase of oil or gas.

(d) In the alternative, the provisions of Subsection (c) of this section may be satisfied by a division order for oil payments in substantially the following form and content:

DIVISION ORDER

TO: (Payor) Property No.

Effective (Date)

The undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all the oil and related liquid hydrocarbons produced from the property described below:

OPERATOR:

Property name:

County: State:

Legal Description:

OWNER NO. TAX I.D./SOC. SEC. NO. PAYEE

DIVISION OF INTEREST

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL OR GAS.

The following provisions apply to each interest owner ("owner") who executes this agreement:

TERMS OF SALE: The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deductions for impurities.

PAYMENT: From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$100 may be accrued before disbursement until the total amount equals \$100 or more, or until 12 months' proceeds accumulate, whichever occurs first. However, the payor may hold accumulated proceeds of less than \$10 until production ceases or the payor's responsibility for making payment for production ceases, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

INDEMNITY: The owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgments in connection with any suit that affects the owner's interest to which payor is made a party.

DISPUTE; WITHHOLDING OF FUNDS: If a suit is filed that affects the interest of the owner, written notice shall be given to payor by the owner together with a copy of the complaint or petition filed.

In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute, until the claim or dispute is settled.

TERMINATION: Termination of this agreement is effective on the first day of the month that begins after the 30th day after the

date written notice of termination is received by either party.

NOTICES: The owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time.

No change of interest is binding on payor until the recorded copy of the instrument of change or documents satisfactorily evidencing such change are furnished to payor at the time the change occurs.

Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor.

Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

In addition to the legal rights provided by the terms and provisions of this division order, an owner may have certain statutory rights under the laws of this state.

Witness	Signature of Interest Owner	Social Security/ Tax I.D. No.	Address
_____	_____	_____	_____
_____	_____	_____	_____

Failure to furnish your Social Security/Tax I.D. number will result in withholding tax in accordance with federal law, and any tax withheld will not be refundable by payor.

(e) If an owner in a producing property will not sign a division order because it contains provisions in addition to those provisions provided for in this section, payor shall not withhold payment solely because of such refusal. If an owner in a producing property refuses to sign a division order which includes only the provisions specified in Subsection (c) of this section, payor may withhold payment without interest until such division order is signed.

(f) Payment may be remitted to a payee annually for the aggregate of up to 12 months' accumulation of proceeds if the payor owes the payee a total amount of \$100 or less for production from all oil or gas wells for which the payor must pay the payee. However, the payor may hold accumulated proceeds of less than \$10 until production ceases or the payor's responsibility for making payment for production ceases, whichever occurs first. On the written request of the payee, the payor shall remit payment of accumulated proceeds to the payee annually if the payor owes the payee less than \$10. On the written request of the payee, the payor shall remit payment of proceeds to the payee monthly if the payor owes the payee more than \$25 but less than \$100.

(g) Division orders are binding for the time and to the extent that they have been acted on and made the basis of settlements and payments, and, from the time that notice is given that settlements will not be made on the basis provided in them, they cease to be binding. Division orders are terminable by either party on 30 days written notice.

(h) The execution of a division order between a royalty owner and lessee or between a royalty owner and a party other than lessee shall not change or relieve the lessee's specific, expressed or implied obligations under an oil and gas lease, including any obligation to market production as a reasonably prudent lessee. Any provision of a division order between payee and its lessee which is in contradiction with any provision of an oil and gas lease is invalid to the extent of the contradiction.

(i) A division order may be used to clarify royalty settlement terms in the oil and gas lease. With respect to oil and/or gas sold in the field where produced or at a gathering point in the immediate vicinity, the terms "market value," "market price," "prevailing price in the field," or other such language, when used as a basis of valuation in the oil and gas lease, shall be defined as the amount realized at the mouth of the well by the seller of such production in an arm's-length transaction.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 650, Sec. 2, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 681, Sec. 1, eff. June 15, 1995.

Sec. 91.403. PAYMENT OF INTEREST ON LATE PAYMENTS. (a) If payment has not been made for any reason in the time limits specified in Section 91.402 of this code, the payor must pay interest to a payee beginning at the expiration of those time limits at two percentage points above the percentage rate charged on loans to depository institutions by the New York Federal Reserve Bank,

unless a different rate of interest is specified in a written agreement between payor and payee.

(b) Subsection (a) of this section does not apply where payments are withheld or suspended by a payor beyond the time limits specified in Section 91.402 of this code because of the conditions enumerated in Section 91.402 of this code.

(c) The payor's obligation to pay interest and the payee's right to receive interest under Subsection (a) of this section terminate on delivery of the proceeds and accumulated interest to the comptroller as provided by Title 6, Property Code.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 230, Sec. 18, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 650, Sec. 3, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 676, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1037, Sec. 39, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 14.15, eff. Sept. 1, 1997.

Sec. 91.404. NONPAYMENT OF OIL AND GAS PROCEEDS OR INTEREST. (a) If a payee seeks relief for the failure of a payor to make timely payment of proceeds from the sale of oil or gas or an interest in oil or gas as required under Section 91.402 or 91.403 of this code, the payee must give the payor written notice by mail of that failure as a prerequisite to beginning judicial action against the payor for nonpayment.

(b) The payor has 30 days after receipt of the required notice from the payee in which to pay the proceeds due, or to respond by stating in writing a reasonable cause for nonpayment.

(c) A payee has a cause of action for nonpayment of oil or gas proceeds or interest on those proceeds as required in Section 91.402 or 91.403 of this code in any court of competent jurisdiction in the county in which the oil or gas well is located.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.405. EXEMPTIONS. This subchapter does not apply to any royalties that are payable to:

(1) the board of regents of The University of Texas System under a lease of land dedicated to the permanent university fund; or

(2) the General Land Office as provided by Subchapter D, Chapter 52, of this code.

Added by Acts 1983, 68th Leg., p. 966, ch. 228, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.406. ATTORNEY'S FEES AND MINIMUM AWARD. If a suit is filed to collect proceeds and interest under this subchapter, the court shall include in any final judgment in favor of the plaintiff an award of:

(1) reasonable attorney's fees; and

(2) if the actual damages to the plaintiff are less than \$200, an additional amount so that the total amount of damages equals \$200.

Added by Acts 1987, 70th Leg., ch. 1011, Sec. 1, eff. Aug. 31, 1987.

Sec. 91.407. NOTICE OF CHANGE OF PAYOR. (a) Following a change in payor, the new payor shall give written notice to each payee to whom the payor is responsible for distributing oil or gas proceeds. The notice must be given to the payee or the payee's designee at the payee's or designee's most recent known address.

(b) Upon receipt of payee's address from the operator or lessee, the payor must provide the notice within the time permitted for payment of proceeds and in accordance with the conditions for payment provided by Section 91.402. The notice must include:

(1) the information required by Sections 91.502(1), (2), and (12) and Section 91.503; and

(2) the payor's telephone number.

(c) The notice may be given by any writing, including a division order, check stub, or attachment to a payment form.

(d) A payor that is obligated to pay interest to a payee under Section 91.403 and that does not give the payee a notice required by this section is liable to the payee for interest under that section at a rate that is two percent more than the rate provided by that section.

Added by Acts 1997, 75th Leg., ch. 1432, Sec. 1, eff. Sept. 1, 1997.

Sec. 91.408. INFORMATION FOR PAYEES OF PROCEEDS OF PRODUCTION FROM CERTAIN GAS WELLS. (a) A payor of proceeds from the sale of gas produced from a tight formation as defined by Section 29(c)(2)(B), Internal Revenue Code of 1986, annually shall furnish the payee a statement providing the information necessary

to compute the federal income tax credit provided by that section for the gas for which payment was made in the preceding year, including:

- (1) information as described in Section 91.502(1) of this code; and
- (2) the volume of the gas, measured in:
 - (A) thousands of cubic feet and heating value;
 - (B) millions of British thermal units for each thousand cubic feet.

(b) A payor shall furnish a statement required by Subsection (a) not later than March 15 each year.
Added by Acts 1999, 76th Leg., ch. 609, Sec. 1, eff. Sept. 1, 1999;
Acts 1999, 76th Leg., ch. 1483, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER K. SALTWATER DISPOSAL PITS

Sec. 91.451. DEFINITION. In this subchapter, "saltwater disposal pit" means a collecting pit on the surface of the ground used to store or evaporate oil field brines, geothermal resource water, or other mineralized water.
Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.452. PROHIBITED ACTIVITY. Except as provided by this subchapter, a person conducting oil and gas development or production operations, geothermal operations, or underground hydrocarbon storage operations may not use a saltwater disposal pit for storage or evaporation of oil field brines.
Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.453. COMMISSION AUTHORIZED. (a) On written application, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit on a temporary emergency basis.

(b) On written application, the commission or its designated employee may administratively authorize a person to use an impervious surface pit in conjunction with a geothermal operation, an underground hydrocarbon storage operation, or an approved saltwater disposal operation.

(c) In cases where it may be conclusively shown that use of a saltwater disposal pit can cause no pollution of surrounding productive agricultural land and no pollution of ground or surface water supplies, either because of the absence of such waters, or due to physical isolation of such waters by naturally occurring impervious barriers, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit.

(d) An authorization under this section must be in writing and must state the conditions under which any pit may be operated.
Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.454. REMOVAL OF AUTHORIZED PITS. (a) A person who is authorized to operate a saltwater disposal pit under Section 91.453 of this code shall close the pit within 45 days after being ordered to close the pit by the commission; provided that the commission may grant an extension or extensions for a reasonable period or periods of time on a showing of good cause or upon request for an extension by the surface owner or owners of the land upon which the pit is situated.

(b) A saltwater disposal pit must be closed in compliance with this subchapter and rules, standards, and specifications adopted by the commission.

(c) In closing a saltwater disposal pit, the person authorized to operate the pit shall remove all salt water and wastes and shall backfill and compact in compliance with commission-approved procedures.
Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.455. RULES, STANDARDS, AND SPECIFICATIONS. (a) The commission shall adopt rules that:

- (1) define the procedures for obtaining authorization to operate a saltwater disposal pit;
- (2) define the conditions under which authorizations for saltwater disposal pits will be granted;
- (3) establish standards for saltwater disposal pits authorized by the commission;
- (4) provide for standards for the proper closing of

saltwater disposal pits authorized by the commission; and
(5) provide other standards, procedures, and requirements necessary to carry out this subchapter.

(b) The commission, by rule, shall require:

(1) liner specifications and installation procedures that are adequate to insulate a saltwater disposal pit; and

(2) the draining, cleaning, and closing of saltwater disposal pits.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.456. INJUNCTIVE RELIEF. If a person is operating a saltwater disposal pit in violation of this subchapter or the commission's rules, standards, or specifications, the commission may have the attorney general institute a suit in a district court in the county in which the saltwater disposal pit is located for injunctive relief to restrain the person from continuing to operate the pit in violation of this subchapter or the rules, standards, or specifications of the commission.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.457. REMOVAL OF UNAUTHORIZED PIT. (a) The commission may order a person who is operating a saltwater disposal pit in violation of this subchapter to close the pit in compliance with this subchapter and commission rules, standards, and specifications, at the pit operator's own expense.

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) of this section fails or refuses to close the pit in compliance with the commission's order and rules, the commission may close the pit using money from the oil-field cleanup fund and may direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 18, eff. Sept. 1, 1991.

Sec. 91.458. CRIMINAL PENALTY. (a) A person who violates Section 91.452 of this code or an order of the commission under Subsection (a), Section 91.457, commits an offense.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983.

Sec. 91.459. CIVIL PENALTY. (a) A person who violates this subchapter or a rule, standard, or specification of the commission or who fails to close a saltwater disposal pit in compliance with this subchapter, a rule, standard, or specification of the commission, an order of the commission, or the authorization for the pit is subject to a civil penalty of not less than \$100 nor more than \$10,000 for each act of violation or failure to comply.

(b) The attorney general shall recover the civil penalty provided by Subsection (a) of this section in a court of competent jurisdiction.

(c) Any penalties or costs recovered by the attorney general under this subchapter shall be deposited in the oil-field cleanup fund.

(d) Repealed by Acts 1991, 72nd Leg., ch. 603, Sec. 32(1), eff. Sept. 1, 1991.

Added by Acts 1983, 68th Leg., p. 5305, ch. 975, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1991, 72nd Leg., ch. 603, Sec. 19, 32(1), eff. Sept. 1, 1991.

SUBCHAPTER L. ROYALTY REPORTING STANDARDS

Sec. 91.5001. DEFINITION. In this subchapter, "payor" has the meaning assigned by Section 91.401.

Added by Acts 2001, 77th Leg., ch. 824, Sec. 1, eff. Jan. 1, 2002.

Sec. 91.501. INFORMATION REQUIRED. If payment is made to a royalty interest owner from the proceeds derived from the sale of oil or gas production pursuant to a division order, lease, servitude, or other agreement, the payor shall include the information required by Section 91.502 on the check stub, an attachment to the payment form, or another remittance advice.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Sec. 91.502. TYPES OF INFORMATION PROVIDED. Each check stub, attachment to a payment form, or other remittance advice must

include:

- (1) the lease, property, or well name, any lease, property, or well identification number used to identify the lease, property, or well, and a county and state in which the lease, property, or well is located;
- (2) the month and year during which the sales occurred for which payment is being made;
- (3) the total number of barrels of oil or the total amount of gas sold;
- (4) the price per barrel or per MCF of oil or gas sold;
- (5) the total amount of state severance and other production taxes paid;
- (6) the windfall profit tax paid on the owner's interest;
- (7) any other deductions or adjustments;
- (8) the net value of total sales after deductions;
- (9) the owner's interest in sales from the lease, property, or well expressed as a decimal;
- (10) the owner's share of the total value of sales before any tax deductions;
- (11) the owner's share of the sales value less deductions; and
- (12) an address and telephone number at which additional information regarding the payment may be obtained and questions may be answered.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985.
Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Sec. 91.503. LEASE, PROPERTY, OR WELL DESCRIPTION. If a division order is not provided that includes the information required by Section 91.402(c)(1)(B), the payor must, at a minimum, provide prior to or with the first payment to which this subchapter applies the information required by Section 91.402(c)(1)(B) for the lease, property, or well for which payment of proceeds is being reported.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985.
Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Jan. 1, 2002.

Sec. 91.504. PROVIDING INFORMATION ABOUT PAYMENT DEDUCTIONS AND ADJUSTMENTS, HEATING VALUE, OR LEASE IDENTIFICATION. (a) If the payor does not explain on the check stub, attachment to the payment form, or other remittance advice, or by a separate mailing, deductions from or adjustments to payments, the payor must provide an explanation by certified mail not later than the 60th day after the date the payor receives a request from the royalty interest owner. The royalty interest owner must send the request by certified mail.

(b) If a royalty interest owner requests information by certified mail concerning the heating value of the gas produced or sold from the lease, property, or well in which the owner has an interest, the payor must, not later than the 60th day after the date the payor receives the request, provide by certified mail:

- (1) a copy of the Form G-1 filed with the commission;
- or
- (2) a check stub or separate statement that includes the information.

(c) A royalty interest owner who received a payment from a payor during the preceding calendar year may request in writing by certified mail that the payor provide a report listing the following information for the preceding year:

- (1) each lease, property, or well identification number;
- (2) each lease, property, or well name;
- (3) the field name;
- (4) the county and state in which the property is located; and
- (5) the commission lease identification number or commingling permit number or any other identification number under which the production for the lease, property, or well is being reported to the state.

(d) A payor who receives a request for information under Subsection (c) shall provide the information by certified mail not later than the 60th day after the date the payor receives the request.

(e) At least once every 12 months, a payor shall provide the following statement to each royalty interest owner to whom the

payor makes a payment:

Section 91.504, Texas Natural Resources Code, gives an owner of a royalty interest in oil or gas produced in Texas the right to request from a payor information about itemized deductions, the heating value of the gas, and the Railroad Commission of Texas identification number for the lease, property, or well that may not have been provided to the royalty interest owner. The request must be in writing and must be made by certified mail. A payor must respond to a request regarding itemized deductions, the heating value of the gas, or the Railroad Commission of Texas identification number by certified mail not later than the 60th day after the date the request is received. An owner of a royalty interest in oil or gas may obtain information regarding production that has been reported to the Railroad Commission of Texas by contacting the oil and gas division of the commission or accessing the commission's website and providing the identification number of the lease and the county in which the lease is located.

Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002; Acts 2005, 79th Leg., ch. 1037, Sec. 1, eff. Sept. 1, 2005.

Sec. 91.505. PROVIDING OTHER INFORMATION. If a royalty interest owner requests information or answers to questions concerning a payment made pursuant to this subchapter, other than information requested under Section 91.504, and the request is made by certified mail, the payor must respond to the request by certified mail not later than 30 days after the request is received. Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Jan. 1, 2002.

Sec. 91.506. EXEMPTION. If the information required by Section 91.502 is provided in some other manner on a monthly basis, the payor is not required to include the information on the check stub, attachment to the payment form, or other remittance advice. Added by Acts 1985, 69th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 824, Sec. 2, eff. Sept. 1, 2002.

Sec. 91.507. ENFORCEMENT. (a) A royalty interest owner who does not receive the information required to be provided under Section 91.502 or 91.503 in a timely manner may send a written request for the information to the payor by certified mail.

(b) Not later than the 60th day after the date the payor receives the written request for information under this section, the payor shall provide the requested information by certified mail.

(c) If a payor fails to provide the requested information within the period specified by Subsection (b), either party may request mediation.

(d) If the royalty interest owner makes a written request for information under Section 91.504 or this section and the payor does not provide the information within the 60-day period, the royalty interest owner may bring a civil action against the payor to enforce the provisions of Section 91.504 or this section, as applicable. The prevailing party is entitled to recover reasonable court costs and attorney's fees.

Added by Acts 2001, 77th Leg., ch. 824, Sec. 3, eff. Sept. 1, 2002.

SUBCHAPTER M. ELECTRIC LOGS

Sec. 91.551. DEFINITIONS. (a) In this subchapter:

(1) "Well" means a well drilled for any purpose related to exploration for or production or storage of oil or gas or both oil and gas, including a well drilled for injection of fluids to enhance hydrocarbon recovery, disposal of produced fluids, disposal of waste from exploration or production activity, or brine mining.

(2) "Electric log" means a wireline survey, except dipmeter surveys and seismic wireline surveys, run in an open hole or a cased hole of a well for purposes of obtaining geological information.

(3) "Drilling operation" means a continuous effort to drill or deepen a well bore for which the commission has issued a permit.

(4) "Operator" means a person who assumes responsibility for the regulatory compliance of a well as shown by a form the person files with the commission and the commission approves.

(b) In this subchapter, "operator" includes a predecessor

or successor operator.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.
Amended by Acts 2005, 79th Leg., ch. 1001, Sec. 1, 2, eff. Sept. 1, 2005.

Sec. 91.552. ELECTRIC LOGS REQUIRED TO BE FILED; CRITERIA. (a) Except as otherwise provided by this subchapter, not later than the 90th day after the date a drilling operation is completed, the operator shall file with the commission a copy of a basic electric log run after September 1, 1985, in conjunction with the drilling or deepening of the well that meets basic criteria established by the commission.

(b) The commission by rule shall establish criteria for basic electric logs to be filed with the commission.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.
Amended by Acts 2005, 79th Leg., ch. 1001, Sec. 3, eff. Sept. 1, 2005.

Sec. 91.553. AVAILABILITY OF ELECTRIC LOGS. (a) Except as specifically provided by this section, each electric log filed with the commission under this subchapter is not confidential and is public information under Chapter 552, Government Code.

(b) Not later than the date by which an electric log is required to be filed with the commission under Section 91.552, the operator may file a written request with the commission asking that the electric log remain confidential and not be made available as public information. On filing this request, the electric log or copy of the electric log required to be filed with the commission may be retained by the operator, and the electric log may remain in the possession of the operator for the period of confidentiality and any extensions of that period. On filing of the request for confidentiality, the electric log becomes confidential and remains confidential for a period of one year after the date that the drilling operation was completed.

(c) If an electric log is made confidential under Subsection (b), the operator is entitled to have the period of confidentiality extended once for an additional period of two years. The commission shall grant the two-year extension on written request of the operator. The written request must be made to the commission before the one-year period of confidentiality under Subsection (b) expires.

(d) If an electric log is made confidential under Subsection (b) and the log was run in a well drilled on land submerged in state water, the operator is entitled to have the period of confidentiality extended for not more than two additional periods of two years each. The commission shall grant the extension or extensions on written request of the operator. The written request must be made to the commission before the expiration of the one-year period of confidentiality under Subsection (b) or the expiration of the first extension granted under this subsection.

(e) An operator required to file an electric log under this section who has held the log during a period of confidentiality or any extensions of that period shall file the log with the commission within 30 days after the conclusion of the period of confidentiality or the period of the last extension.

(f) An operator who fails to timely file with the commission a written request under Subsection (b) that an electric log remain confidential and not be made available as public information or a written request under Subsection (c) or (d) for an extension of the period of confidentiality shall file the log with the commission immediately after the conclusion of the period for filing the request.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 1001, Sec. 4, eff. Sept. 1, 2005.

Sec. 91.554. AVAILABILITY OF CONFIDENTIAL ELECTRIC LOGS. If the commission requires an electric log to be filed before the expiration of a period of confidentiality, the commission shall make that electric log available for inspection during the period of confidentiality only to:

(1) a person authorized in writing by the operator;
and

(2) members of the commission and its employees in the exercise of their powers and duties under this code.

Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.
Amended by Acts 2005, 79th Leg., ch. 1001, Sec. 5, eff. Sept. 1, 2005.

Sec. 91.555. MANAGEMENT AND STORAGE OF ELECTRIC LOGS. The commission may contract with any person for the management and storage of the electric logs filed with the commission. Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.556. DENIAL OF ALLOWABLE. If an operator fails to file an electric log as required by this subchapter, the commission may refuse to assign an allowable or a change in allowable for production from the well for which the electric log is required until the operator files the electric log with the commission. Added by Acts 1985, 69th Leg., ch. 978, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2005, 79th Leg., ch. 1001, Sec. 5, eff. Sept. 1, 2005.

SUBCHAPTER N. OIL AND GAS HAZARDOUS WASTE

Sec. 91.601. DEFINITIONS. In this subchapter:

(1) "Oil and gas hazardous waste" means oil and gas waste that is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.).

(2) "Oil and gas waste" means oil and gas waste as defined in Section 91.1011 of this chapter.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 20, eff. Sept. 1, 1991.

Sec. 91.602. RULES. (a) To protect human health and the environment, the commission shall adopt and enforce rules and orders and may issue permits relating to the generation, transportation, treatment, storage, and disposal of oil and gas hazardous waste.

(b) The rules adopted by the commission under this section must be consistent with the hazardous waste regulations adopted by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.). The commission may adopt and enforce rules that are more stringent than the federal hazardous waste regulations if necessary to protect human health.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 20, eff. Sept. 1, 1991.

Sec. 91.603. ACCESS TO PROPERTY AND RECORDS. (a) A member or employee of the commission, on proper identification, may enter public or private property to:

(1) inspect and investigate conditions relating to the generation, transportation, treatment, storage, or disposal of oil and gas hazardous waste;

(2) inspect and investigate conditions relating to the development of rules, orders, or permits under Section 91.602 of this code;

(3) monitor compliance with a rule, order, or permit of the commission; or

(4) examine and copy, during reasonable working hours, those records or memoranda of the business being investigated.

(b) A member or employee acting under this section who enters an establishment on public or private property shall observe the establishment's posted safety, internal security, and fire protection rules.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 20, eff. Sept. 1, 1991.

Sec. 91.604. CRIMINAL PENALTY. (a) A person who knowingly violates a rule, order, or permit of the commission issued under this subchapter commits an offense.

(b) An offense under this section is punishable by imprisonment for up to six months, by a fine of up to \$10,000 for each day the violation is committed, or by both.

(c) Venue for prosecution under this section is in the county in which the violation is alleged to have occurred.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 20, eff. Sept. 1, 1991.

Sec. 91.605. HAZARDOUS OIL AND GAS WASTE GENERATION FEE. (a) An annual fee is imposed on each operator who generates hazardous oil and gas waste.

(b) The commission by rule shall set the fee, which must:

(1) be based on the volume of hazardous oil and gas waste generated by the operator; and

(2) be reasonably related to the costs of implementing this subchapter and enforcing the rules, orders, and permits adopted or issued by the commission under this subchapter.

(c) The commission by rule shall also prescribe the procedures by which an operator must account for the volume of hazardous oil and gas waste generated and pay the fee.

(d) This section does not apply to an operator who, at all facilities operated in this state, satisfies the requirements established by the administrator of the United States Environmental Protection Agency for a conditionally exempt small quantity generator.

(e) The fees collected under this section shall be deposited in the oil-field cleanup fund.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 20, eff. Sept. 1, 1991.

SUBCHAPTER O. RAILROAD COMMISSION VOLUNTARY CLEANUP PROGRAM

Sec. 91.651. DEFINITIONS. In this subchapter:

(1) "Contaminant" includes a waste, pollutant, or substance regulated by, or that results from an activity under the jurisdiction of, the commission under this chapter, Chapter 141 of this code, or Chapter 27, Water Code.

(2) "Environmental assessment" means the assessment described by Section 91.654.

(3) "Response action" means the cleanup or removal of a contaminant from the environment.

(4) "Voluntary cleanup" means a response action taken under and in compliance with this subchapter.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.652. PURPOSE. The purpose of the voluntary cleanup program is to provide an incentive to remediate property by removing the liability to the state of lenders, developers, owners, and operators who did not cause or contribute to contamination released at the site covered by the certificate. The program does not replace other voluntary actions and is restricted to voluntary actions.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.653. ELIGIBILITY FOR VOLUNTARY CLEANUP PROGRAM. (a) Any site that is contaminated with a contaminant is eligible for participation in the voluntary cleanup program except the portion of a site that may be subject to a commission order.

(b) A person electing to participate in the voluntary cleanup program must:

(1) enter into a voluntary cleanup agreement as provided by Section 91.656; and

(2) pay all costs of commission oversight of the voluntary cleanup.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.654. APPLICATION TO PARTICIPATE IN VOLUNTARY CLEANUP PROGRAM. (a) A person who desires to participate in the voluntary cleanup program under this subchapter must submit to the commission an application and an application fee as prescribed by this section.

(b) An application submitted under this section must:

(1) be on a form provided by the commission;

(2) contain:

(A) general information concerning:

(i) the person and the person's capability, including the person's financial capability, to perform the voluntary cleanup;

(ii) the site; and

(iii) the name, address, and telephone number of all surface and mineral owners;

(B) other background information requested by the commission;

(C) an environmental assessment of the actual or threatened release of the contaminant at the site; and

(D) if the person applying is not the surface owner, written authorization from the surface owner agreeing to the applicant's participation in the program;

(3) be accompanied by an application fee of \$1,000; and

(4) be submitted according to schedules set by the commission.

(c) The environmental assessment required by Subsection (b) must include:

(1) a legal description of the site;

(2) a description of the physical characteristics of the site;

(3) the operational history of the site to the extent

that history is known by the applicant;

(4) information of which the applicant is aware concerning the nature and extent of any relevant contamination or release at the site and immediately contiguous to the site, or wherever the contamination came to be located; and

(5) relevant information of which the applicant is aware concerning the potential for human exposure to contamination at the site.

(d) An application shall be processed in the order in which it is received.

(e) Fees collected under this section shall be deposited to the credit of the oil-field cleanup fund under Section 91.111. Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.655. REJECTION OF APPLICATION. (a) The commission may reject an application submitted under Section 91.654 if:

(1) a state or federal enforcement action is pending that concerns the remediation of the contaminant described in the application;

(2) a federal grant requires an enforcement action at the site;

(3) the application is incomplete or inaccurate; or

(4) the site is ineligible under Section 91.653.

(b) If an application is rejected because it is incomplete or inaccurate, the commission, not later than the 45th day after receipt of the application, shall provide the person with a list of all information needed to make the application complete or accurate. A person may resubmit an application once without submitting an additional application fee if the person resubmits the application not later than the 45th day after the date the commission issues notice that the application has been rejected.

(c) If the commission rejects the application, the commission shall:

(1) notify the person that the application has been rejected;

(2) explain the reasons for rejection of the application; and

(3) inform the person that the commission will refund half the person's application fee unless the person indicates a desire to resubmit the application.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.656. VOLUNTARY CLEANUP AGREEMENT. (a) Before the commission evaluates any plan or report detailing the remediation goals and proposed methods of remediation, the person desiring to participate in the voluntary cleanup program must enter into a voluntary cleanup agreement that sets forth the terms and conditions of the evaluation of the reports and the implementation of work plans.

(b) A voluntary cleanup agreement must provide for:

(1) recovery by the commission of all reasonable costs:

(A) incurred by the commission in review and oversight of the person's work plan and reports and as a result of the commission's field activities;

(B) attributable to the voluntary cleanup agreement; and

(C) in excess of the amount of fees submitted by the applicant under Section 91.654;

(2) a schedule of payments to the commission to be made by the person for recovery of all commission costs fairly attributable to the voluntary cleanup program, including direct and indirect costs of overhead, salaries, equipment, and utilities, and legal, management, and support costs; and

(3) appropriate tasks, deliverables, and schedules.

(c) The voluntary cleanup agreement shall:

(1) identify all statutes and rules with which the person must comply;

(2) describe any work plan or report to be submitted for review by the commission, including a final report that provides all information necessary to verify that all work contemplated by the voluntary cleanup agreement has been completed;

(3) include a schedule for submitting the information required by Subdivision (2); and

(4) state the technical standards to be applied in

evaluating the work plans and reports, with reference to the proposed future land use to be achieved.

(d) If an agreement is not reached between a person desiring to participate in the voluntary cleanup program and the commission on or before the 30th day after good faith negotiations have begun:

(1) the person or the commission may withdraw from the negotiations; and

(2) the commission retains the person's application fee.

(e) The commission may not initiate an enforcement action against a person who is in compliance with this section for the contamination or release that is the subject of the voluntary cleanup agreement or for activity that resulted in the contamination or release.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.657. TERMINATION OF AGREEMENT; COST RECOVERY. (a) The commission or the person in its sole discretion may terminate the agreement by giving 15 days' advance written notice to the other. Only those costs incurred or obligated by the commission before notice of termination of the agreement are recoverable under the agreement if the agreement is terminated.

(b) Termination of the agreement does not affect any right the commission has under other law to recover costs.

(c) If the person does not pay to the commission the state's costs associated with the voluntary cleanup before the 31st day after the date the person receives notice that the costs are due and owing, the attorney general, at the request of the commission, shall bring an action in the name of the state in Travis County to recover the amount owed and reasonable legal expenses, including attorney's fees, witness costs, court costs, and deposition costs. Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.658. VOLUNTARY CLEANUP WORK PLANS AND REPORTS. (a) After signing a voluntary cleanup agreement, the person shall prepare and submit the appropriate work plans and reports to the commission.

(b) The commission shall review and evaluate the work plans and reports for accuracy, quality, and completeness. The commission may approve a voluntary cleanup work plan or report or, if a work plan or report is not approved, notify the person concerning additional information or commitments needed to obtain approval.

(c) At any time during the evaluation of a work plan or report, the commission may request the person to submit additional or corrected information.

(d) After considering future land use, the commission may approve work plans and reports submitted under this section that do not require removal or remedy of all discharges, releases, and threatened releases at a site if the partial response actions for the property:

(1) will be completed in a manner that protects human health and the environment;

(2) will not cause, contribute, or exacerbate discharges, releases, or threatened releases that are not required to be removed or remedied under the work plan; and

(3) will not interfere with or substantially increase the cost of response actions to address the remaining discharges, releases, or threatened releases.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.659. CERTIFICATE OF COMPLETION. (a) If the commission determines that a person has successfully completed a voluntary cleanup approved under this subchapter, the commission shall certify that the action has been completed by issuing the person a certificate of completion.

(b) The certificate of completion must:

(1) acknowledge the protection from liability provided by Section 91.660;

(2) indicate the proposed future land use; and

(3) include a legal description of the site and the name of the site's surface and mineral owner and mineral operator at the time the application to participate in the voluntary cleanup program was filed.

(c) If the commission determines that the person has not

successfully completed a voluntary cleanup approved under this subchapter, the commission shall notify of this determination the person who undertook the voluntary cleanup and the current surface and mineral owner and mineral operator of the site that is the subject of the cleanup.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.660. PERSONS RELEASED FROM LIABILITY. (a) A person who is not a responsible person under Section 91.113 at the time the person applies to perform a voluntary cleanup:

(1) does not become a responsible person solely because the person signs the application; and

(2) is released, on certification under Section 91.659, from all liability to the state for cleanup of areas of the site covered by the certification, except for releases and consequences that the person causes.

(b) A person who is not a responsible person under Section 91.113 at the time the commission issues a certificate of completion under Section 91.659 is released, on issuance of the certificate, from all liability to the state for cleanup of areas of the site covered by the certificate, except for releases and consequences that the person causes.

(c) The release from liability provided by this section does not apply to a person who:

(1) caused or contributed to the contamination at the site covered by the certificate;

(2) acquires a certificate of completion by fraud, misrepresentation, or knowing failure to disclose material information;

(3) knows at the time the person acquires an interest in the site for which the certificate of completion was issued that the certificate was acquired in a manner provided by Subdivision (2); or

(4) changes land use from the use specified in the certificate of completion if the new use may result in increased risks to human health or the environment.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.

Sec. 91.661. PERMIT NOT REQUIRED. (a) A state or local permit is not required for removal or remedial action conducted on a site as part of a voluntary cleanup under this subchapter. A person shall coordinate a voluntary cleanup with ongoing federal and state waste programs.

(b) The commission by rule shall require that the person conducting the voluntary cleanup comply with any federal or state standard, requirement, criterion, or limitation to which the remedial action would otherwise be subject if a permit were required.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 34, eff. Sept. 1, 2001.